

Before Shauzab Ali, Commissioner (SMD)

In the matter of Show Cause Notice issued to Asad Mustafa Securities (Pvt) Limited

Date of Hearing

November 05, 2019

Order-Redacted Version

Order dated April 21, 2020 was passed by Commissioner (SMD) in the matter of Asad Mustafa Securities (Pvt) Limited. Relevant details are given as hereunder:

Nature	Details
1. Date of Action	Show cause notice dated October 25, 2019
2. Name of Company	Asad Mustafa Securities (Pvt) Limited
3. Name of Individual*	Not relevant. The proceedings were initiated against the Company i.e. Asad Mustafa Securities (Pvt) Limited.
4. Nature of Offence	Proceedings under Section 40A of SECP Act, 1997 for violations of inter-alia Regulation 4(a), 4(d), 20(b) and 18(c)(iii) of AML Regulations, 2018 and 16(9)(e) and 16(9)(f) of the Licensing Regulations.
5. Action Taken	<p>Key findings of default of Regulations were reported in the following manner:</p> <p>I have examined the submissions of the Respondent and its Representatives. In this regard, I observe that:</p> <p style="margin-left: 40px;">a. With respect to deficiencies in AML/CFT Policy, the Respondent accepted the observations and submitted that its policy has been updated after the observation was highlighted by the Commission. The primary step to ensure effective implementation of the AML Regulations is to develop a comprehensive AML/CFT Policy which covers all aspects of the AML Regulations. The deficiencies in policies, controls and procedures related to AML/CFT or violation of Regulation 4(a) of the AML Regulations. Further, it also construes as negligence on behalf of the Respondent and its compliance officer who is responsible to monitor and review the AML/CFT policies and procedures and highlight any shortcomings therefore, the Respondent was also found non-compliant with Regulation 18(c)(iii) of the AML</p>



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Regulations. The requirements regarding policy are contained in Regulation 4(a) of the AML Regulations and the default thereof is admitted. Furthermore, non-existence of policy is also indicative of the fact that the formulation and implementation of procedures to achieve the policy objectives have also not been prepared and adopted. Lack of sufficient measures and controls in place to ensure compliance with the AML regulatory framework makes the Respondent liable under Regulation 5, 6(7), 6(9), 9(4)(a), 14(5) and 18(c)(i-vii) of the AML Regulations. Moreover, it may be noted that the review was conducted in February 2019 which is almost eight months after the issuance of the regulations, i.e. June 2018. However, the policy was not updated till the time of review. Therefore, I am of the considered view that a year delay indicates weakness in responsiveness on the part of management of the Respondent.

- b. In case of observation regarding compromise of independence of compliance function on account of co-signing of compliance report by Chief Executive along with Compliance Officer, it needs to be noticed that Regulation 18(a) of the AML Regulations requires reporting of Compliance Officer to the Board of Directors or to another equivalent executive position. Chief Executive Officer is a deemed director who holds an executive position in Respondent, therefore the submission of Respondent is accepted and no adverse action is warranted.
- c. Regarding the independence of audit function, the Respondent accepted the observation and submitted that its internal audit report has been updated after the deficiencies highlighted by the Commission. Further, they submitted the updated internal audit report as on June 30, 2019. Therefore, the Respondent was found non-compliant with Regulation 4(d) of the AML Regulations and Regulation 16(9)(e) & 16(9)(f) of the Licensing Regulations at the time of Review.
- d. With regard to the observation regarding non-development and implementation suitable training program for its employees, the Authorized Representative during the hearing submitted that they were providing the said trainings to their employees. However, subsequent to hearing, the Respondent submitted merely a letter dated June 05, 2019 of a law firm namely: Al-Wakeel Law Chambers, indicating that a training was held on June 1, 2019 (After the date of Review). The said letter is not a sufficient proof of evidence without its



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	<p>supporting documents like payment invoice, engagement letter and pictures of event. Therefore, the Respondent was found non-compliant with regulation 20(b) of the AML Regulations.</p> <p>In view of the foregoing and admission made by the Representatives, contraventions of the provisions of AML Regulations & Licensing Regulations have been established. Therefore, in terms of powers conferred under section 40A of the Act, a penalty of Rs. 50,000/- (Rupees fifty thousand only) is hereby imposed on the Respondent. Further, in terms of powers conferred under section 150 of the Securities Act 2015, a penalty of Rs. 200,000/- (Rupees two hundred thousand only) is also imposed on the Respondent. The Respondent is advised to examine its AML/CFT policy and procedures to ensure that the requirements contained in the AML Regulations are met in letter and spirit.</p> <p>Penalty order dated April 21, 2020 was passed by Commissioner (SMD).</p>
6. Penalty Imposed	A penalty of Rs. 250,000/- (Rupees two hundred and fifty thousand only) was imposed on the Company in aggregate.
7. Current Status of Order	An appeal has been filed against this order.

Redacted version issued for placement on the website of the Commission.