

**Before Ali Azeem Ikram, Executive Director/HOD (Adjudication-I)**

**In the matter of Show Cause Notice issued to ASDA Securities Private Limited**

Date of Hearing	December 02, 2020
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**Order-Redacted Version**

Order dated December 24, 2020 was passed by Executive Director/Head of Department (Adjudication-I) in the matter of ASDA Securities Private Limited. Relevant details are given as hereunder:

<b>Nature</b>	<b>Details</b>
• Date of Action	Show Cause notice dated June 04, 2020.
• Name of Company	ASDA Securities Private Limited.
• Name of Individual	The proceedings were initiated against the Company i.e. ASDA Securities Private Limited and its Compliance Officer.
• Nature of Offence	Proceedings under Section 40A of the Securities and Exchange Commission of Pakistan Act, 1997.
• Action Taken	<p>Key findings of default of Regulations were reported in the following manner:</p> <p>I have carefully examined the facts of the case in light of the applicable provisions of the law and have given due consideration to the written as well as verbal submissions and arguments of the Respondents. I am of the considered view that the Respondents did not ensure their compliance with the mandatory provisions of the Regulations in the following instances:</p> <ul style="list-style-type: none"><li>• With regard to the observation regarding deficiencies in its policies and procedures, the Respondent's had provided that:<ul style="list-style-type: none"><li>a. Procedures relating to the screening of customers, joint account holders, nominees, authorized person, board of directors and trustees from the list of proscribed persons were covered under Section 17 of its AML/CFT policy and further that section also provides for the screening of its clients. However, it was observed that the said policy does not cover the screening of its joint account holders, nominees, authorized officers, board of directors, trustees and due to which the Respondent's policy was found non-compliant.</li><li>b) Policy and Procedures with respect to identification of Afghan Refugees were covered under Annexure 2A of its policy. However, the same was not provided to the Inspection team as admitted by the Respondent in its response.</li><li>c) Policies and Procedures relating to cross border funds transfer for the non-resident foreign customers were also covered under Annexure 2A</li></ul></li></ul>

of its policy. However, the same was not provided to the Inspection team as admitted by the Respondent in its response.

d) Policy and procedures with respect to Regulation 9(2)(b) & 9(2)(c) were covered under Section 12 of its policy however, point 12 of the policy did not cover EDD measures with respect to such body corporate, partnerships, associations and legal arrangements including non-governmental organizations or not-for-profit organizations which receive donations and legal persons or arrangement. Therefore, the Respondent was found to be non-compliant with its own policy.

e) High risk jurisdiction areas as per NRA 2019 were covered under Annexure 2A of its policy. However, the same was not provided to the inspection team as admitted by the Respondent in its response.

Due to the aforementioned reasons and arguments the Respondent's policy was found to be non-compliant with Regulation 4(a) of the AML Regulations. Further, the compliance officer of the Respondent had also failed to fulfil his obligations to monitor, review and update its policy and procedures in line with the requirements of the AML Regulations and found to be non-compliant with Regulation 18(c)(iii) of the AML Regulations.

- With regards to observation pertaining to the database of beneficial owners and Board of directors of its corporate clients for screening purposes, the Respondent had submitted that they only perform screening of beneficial owners of its clients at the time of account opening and the same was not made part of its database of clients. The Respondent had initiated the practice of incorporating details of authorized persons, beneficial owners, board of directors, trustees and office bearers of its corporate clients subsequent to the observation highlighted during the review. The Respondent during the hearing also admitted that the practice has been initiated in July, 2020 i.e. after the inspection review. In view of the said arguments, it has been observed that the Respondent's database was insufficient with respect to the details of aforementioned categories at the time of inspection and therefore, it has been found to be non-compliant with Regulation 4(a), 13(7) & 15(3) of the AML Regulations. Further, the compliance officer of the Respondent has also failed to fulfil its obligations under Regulation 18 (c)(iii) of the AML Regulations and failed to update its database in accordance with the requirements of AML Regulations.
- With regard to the two instances regarding the missing source of income/ funds and deficient beneficial owner details, the Respondent at

the time of inspection had provided that the documentation was under process. With regard to one client, the Respondent had arranged CGT Certificate and provided that the client was receiving funds from abroad from a sibling. In another instance, the Respondent had submitted details of beneficial owner i.e. son of the account holder and arranged salary slip of the son. However, the evidences regarding source of income/ evidence was not provided during the review therefore, in view of the deficient information, the Respondent was found to be non-compliant with Regulation 6(3)(a) and Regulation 6(3)(c) of the AML Regulations.

- With regard to instance relating to its corporate client, it was observed that the Respondent had not obtained the latest financial statements. The client was maintaining the significant trading custody in its account which did not commensurate with its level of income as depicted from the financial statements of previous years, i.e. June, 2018. Further, the client has significant debit balance in its account. The Respondent provided that no trading in its account has been suspended and the information has been called for but no response has been received from the client. In view of the said contention, the Respondent did not provide any evidence of suspension of its trading activity of information sought from its client during the time of Inspection. In view of the deficient information of its corporate clients during the review, the Respondent was found to be non-complaint with Regulation 13(1) of the AML Regulation which calls for on-going monitoring of its clients in order to identify and collect updated information.
- With regard to the observation regarding NADRA Verisys of its clients, joint account holders, authorized persons, nominees, trustees and Board of Directors in case of 11 client accounts, the Respondent had submitted that they did not have access to NADRA Verisys system during the inspection. Further, the Respondent during the hearing also provided that they have taken up the matter with Pakistan Brokers Association. The Respondent further contended that it was performing the practice of validation either by requiring CNIC copy to be verified through original CNIC (original seen) or by requiring attested copy of CNIC. However, the same cannot be substituted for the requirement of Verisys of CNIC through NADRA. Further, the Respondent has failed to demonstrate its efforts for any third party verification or consultation with NADRA on its own. Due to such reasons and failure to conduct Verisys of CNICs, the Respondent was found to be non-compliant with Regulation 6(4) read with Annexure 1 (Note i) of the AML Regulations.

	<p>In view of the foregoing facts, I am of the considered view that flagrant and multiple violations of the provisions of AML Regulations have been established against the Respondent and its Compliance Officer. Therefore, in terms of powers conferred under section 40A of the Act, a penalty of <b>Rs. 260,000/- (Rupees Two Hundred Sixty Thousand only)</b> is hereby imposed on the Respondent.</p> <p>Penalty Order dated December 24, 2020 was passed by Executive Director (Adjudication-I).</p>
<ul style="list-style-type: none"> <li>• Penalty Imposed</li> </ul>	<p>Penalty of 260,000/- (<u>Rupees Two Hundred Sixty Thousand only</u>) was imposed.</p>
<ul style="list-style-type: none"> <li>• Current Status of Order</li> </ul>	<p>No Appeal was filed against the Order.</p>

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