



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
SECURITIES MARKET DIVISION

Before the Executive Director (Securities Market Division)

In the matter of Show Cause Notice issued to

Aziz Fida Hussain & Company (Private) Limited

Under Rule 8 read with Rule 12 of the Brokers and Agents Registration Rules, 2001 ("The Brokers Rules") and Section 28 Of the Central Depositories Act, 1997 (the CDC Act)

Number and date of Notices	SMD-SOUTH/SCN/95/07 dated July 31, 2007
Date of hearing	August 08, 2007
Present	Mr. Aziz Fida Hussain –CEO and Mr. Irfan Aziz –Director
Date of Order	October 29, 2007

ORDER

1. This order shall dispose of the proceedings initiated through Show Cause Notice SMD-SOUTH/SCN/95/07 dated July 31, 2007 issued to **Aziz Fida Hussain & Company (Private) Limited** (the "**Respondent**") by the Securities and Exchange Commission of Pakistan (the "**Commission**") under Rule 8 of the Brokers Rules for violation of Rule 12 of the Brokers Rules and Clause A5 of the code of conduct contained in the Third Schedule to the Brokers Rules and under section 28 of the CDC Act.
2. Brief facts of the case are that the Respondent is a member of the Karachi Stock Exchange (Guarantee) Limited ("**Exchange/KSE**") and is registered with the Commission under the Brokers Rules. An enquiry was initiated by the Commission in exercise of its powers under Section 21 of the Securities and Exchange Ordinance, 1969 and A. F. Ferguson & Co. ("**the Enquiry Officer**") was appointed as the Enquiry Officer under the above mentioned section inter alia:
 - a) to enquire into the dealings, business or any transaction by the Respondent during the period from April 1, 2006 to June 15, 2006 ("**the Review Period**").

- b) to identify any and all the acts or omissions constituting the violation of the Securities and Exchange Ordinance, 1969 ("**1969 Ordinance**") and the Rules made thereunder.
- c) to identify violations of any other applicable laws, including but not limited to the Brokers Rules, Regulations for Short Selling under Ready Market, 2002 ("**2002 Regulations**"), General Rules & Regulations of Karachi Stock Exchange (Guarantee) Limited, The Central Depository Company of Pakistan Limited Regulations ("**CDC Regulations**") read with the CDC Act.
3. The findings of the Enquiry Officer revealed several instances of potential non compliances with applicable laws and regulations. A copy of the Enquiry Officer's report was sent to the Respondent under cover of a letter dated April 30, 2007 which required the Respondent to provide explanations on the observations of the Enquiry Officer together with supporting documents.
4. After perusal of the Respondent's replies to the above mentioned letter, which did not adequately explain the position, a Show Cause Notice was issued to the Respondent under Rule 8 of the Brokers Rules and under section 28 of the CDC Act, stating that the Respondent has prima facie contravened Rule 12 of the Brokers Rules read with Clause A5 of the code of conduct contained in the Third Schedule to the Brokers Rules and requirements of the CDC Regulations. Rule 12 of the Brokers Rule and clause A5 of the code of conduct are reproduced as under:
- Rule 12-** " A broker holding a certificate of registration under this rules shall abide by the code of conduct specified in the Third Schedule"
- Clause A5 of the code of conduct-**"A broker shall abide by all the provisions of the Act and the rules, regulations issued by the Commission and the stock exchange from time to time as may be applicable to them".
5. The Respondent was called upon to show cause in writing within seven days and appear before the Executive Director (SMD-South) on August 08, 2007 for a hearing, to be attended either in person and/or through an authorized representative.



6. The hearing was held on August 08, 2007 which was attended by Mr. Aziz Fida Hussain, Chief Executive Officer and Mr. Irfan Aziz, Director, the Representatives of the Respondent, who submitted a written reply and argued the case.

7. A summary of the contentions that were raised by the Respondent in the written submissions and during the hearing and findings and conclusion of the Commission on the same is as follows:

8. Blank Sales

8.1 In terms of Regulation 4 of the 2002 Regulations, blank sales are not permissible. The findings of the Enquiry Officer revealed 07 instances of blank sales during the Review Period.

8.2 The Respondent made the following submissions on this Issue ("**Issue No. 1**"):

- The Respondent claimed that the instances identified by the Enquiry Officer were infact not blank sales and proper evidences were submitted to the Enquiry Office in support of its contention.
- The Respondent submitted evidences in support of its claim, perusal of which established that the 07 instances identified by the Enquiry Officer were not blank sales and the respective clients had pre-existing interest at the time of sale. However, the Respondent is strongly advised that the evidences provided pursuant to the Show Cause Notice should have been produced before the Enquiry Officer and submitted to the Commission in response to the Commission's letter dated April 30, 2007 wherein the Respondent was provided with an opportunity to respond on the issues raised by the Enquiry Officer.

9. Missing Account Opening Forms

9.1 In terms of Regulation 74 of the General Rules & Regulations of Karachi Stock Exchange (Guarantee) Limited it is provided that:

"The Members of the Exchange shall adopt the Standardized Account Opening Form, attached as Form-I to these Regulations, for their new Account Holders with immediate effect and for the existing operating accounts, the same shall be brought into conformity with Standardized Account Opening Form effective from March 31, 2004".



- 9.2 Findings of the Enquiry Officer revealed that the Account Opening Forms of 09 customers were not available with the Respondent.
- 9.3 The Respondent made the following submission on this Issue ("Issue No. 2"):
- The Respondent submitted 07 out of 09 Account Opening Forms and for the remaining forms contended that one of these pertained to an inactive house account while the other pertained to an Institutional client which refused to fill the forms over certain disagreements over standard terms and conditions.
- 9.4 Considering the fact that non-submission of account opening forms by institutional clients is an industry-wide problem which is faced by all the brokers and the low number and frequency of the cases of forms not obtained from customers, I am inclined, on this occasion, to take a lenient view in the matter and will not take any punitive action under Rule 8 of the Brokers Rules. As such, I believe a 'caution' in this instance to the Respondent would suffice and I would further direct the Respondent to ensure that no individual or Institution is admitted as a client unless it submits a duly filled account opening form and that the Respondent should clearly direct all of its existing clients to immediately submit duly filled account opening forms.

10. CDC Balance statements

- 10.1 In terms of Regulation 6.2A.1 of The CDC Regulations it is provided that:

"Every Participant shall send by the 10th day of every month to all Sub- Account Holders maintaining Sub-Accounts under the control of such Participant Holding Balance statements showing the number of every Book-entry Security entered in every such Sub-Account as of the end of the preceding month. Such Holding Balance statements shall be generated from the CDS and shall be sent to the Sub-Account Holders in the manner set out in Regulation 2.6.4."

- 10.2 Findings of the Enquiry Officer revealed that the Respondent did not have a practice to send the CDC Balance statements to all of its customers by the 10th of each month as required under the CDC Regulations and where the CDC Balance statements were sent, the same were not generated from the CDS, instead the statement was sent on the Respondent's own format.



10.3 The Respondent made the following submissions on this Issue ("Issue No. 3"):

- The Respondent admitted that the CDC Balance statements were provided only to its active clients and whenever requested by any client, as sending the same to all of its clients raised its operating costs and placed unnecessary burden on the Respondent.
- The Respondent submitted that since the CDS requires printout of CDC balance statement of each customer to be taken separately and there is no facility to obtain printouts of CDC balance statements of multiple clients, sending CDC Balance statements to each and every customer each month is virtually impractical.
- The Respondent also claimed that it has a system of providing updated information regarding CDC holding to its client on daily basis through email.
- The Respondent further stated that it has made arrangements to comply with the requirements of above mentioned regulation in the future.

10.4 I have considered the contentions of the Respondent and the core issues raised therein. The Commission is cognizant of the practical difficulties associated with sending the CDC Balance Statements to all customers, specially in cases of brokerage houses with a large clientele comprising a significant number of dormant accounts and acknowledging the fact that the Respondent is following the requirements of the CDC Regulations in spirit by providing the CDC Balance Statements to its active clients, I am inclined, on this occasion, to take a lenient view in the matter and will not take any punitive action under section 28 of the CDC Act. As such, I believe a 'caution' in this instance to the Respondent would suffice and I would further direct the Respondent to ensure that full compliance is made of all the Regulations in future for avoiding any punitive action under the law.

11. In view of what has been discussed above, I am of the considered view that no punitive action is necessary in relation to Issues No. 1, 2 and 3 and a simple caution will suffice in case of Issues No.2 and 3.



Zafar Abdullah
Executive Director
Securities Market Division