



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

**Bawa Securities (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 Notice	SMD-SOUTH/SCN/119/07 dated August 24, 2007
Date of hearing	October 11, 2007
Present	Mr. Shoaib Chamdia
Date of Order	December 26, 2007

---

**ORDER**

---

1. This order shall dispose of the proceedings initiated through Show Cause Notice SMD-SOUTH/SCN/119/07 dated August 24, 2007 ("**Show Cause Notice**") issued to Bawa Securities (Pvt.) 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 (the "**Exchange**") 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 ("**1969 Ordinance**") and KPMG Taseer Hadi & 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 1969 Ordinance and the Rules made thereunder; and
  - c) to identify violations of any other applicable laws, including but not limited to the Brokers Rules and Regulations for Short Selling under Ready Market, 2002

5<sup>th</sup> Floor, State Life Building No. 2, Wallace Road, Karachi  
Tele: 021-9217598 - Fax: 021-9217597

("2002 Regulations") and the Central Depository Company of Pakistan Limited Regulations ("CDC Regulations") read with the CDC Act.

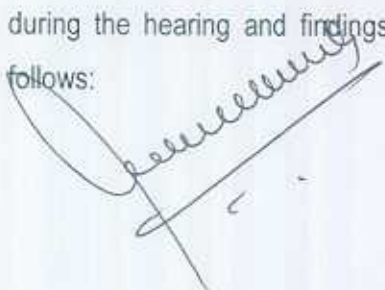
3. The findings of the Enquiry Officer revealed several instances of potential non compliances with applicable laws and regulations. A copy of the Enquiry Officer's report was sent to the Respondent under cover of a letter dated May 18, 2007 which required the Respondent to provide explanations on the 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 these 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 October 11, 2007 for a hearing, to be attended either in person and/or through an authorized representative.
6. The hearing was held on October 11, 2007 which was attended by Mr. Shoaib Chamdia, the Representative 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 reply / during the hearing and findings / conclusions of the Commission on the same are as follows:

follows:

A handwritten signature in black ink, which appears to be 'S. Shoaib Chamdia', is written over a horizontal line. Below the signature, there are several small, illegible scribbles.

## 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 6,829 instances of blank sales during the Review Period.

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

- The Respondent contended that the instances identified by the Enquiry Officer were not blank sales and the respective clients had pre-existing interest at the time of the trades. The Respondent also submitted documents in support of its claim.
- The Respondent further contended that in certain cases a customer instructs execution of a sale order and undertakes to deliver securities to the broker. Later, the said customer purchases back the shares thus squaring his position. The Respondent contended that it is not possible to stop such instances of blank sales.

8.3 I have considered the contentions of the Respondent and the issues raised therein and the same are addressed by me below:

- Perusal of the documents submitted by the Respondent transpired that 816 out of 6,829 instances were not blank sales and the respective clients had pre-existing interest the time of the trades. However, satisfactory evidences were not submitted in respect of the remaining 6,013 instances.
- It is the obligation of a brokerage house to ensure compliance with all applicable rules and regulations and appropriate internal control procedures need to be in place to prevent a customer from making a sale without holding pre-existing interest. Hence, the contention that a customer undertakes to deliver securities at the time of sale and later squares up his position cannot be accepted.

8.4 Considering the above facts and the contentions of the Respondent, it is established that on 6,013 occasions blank sales have been made in violation of Regulation 4 of the 2002 Regulations. In terms of Rule 8 of the Brokers Rules, more particularly sub rule (ii), sub rule (iii) and sub rule (iv) thereof, where the Commission is of the opinion that a broker has inter alia failed to comply with any requirements of the Securities & Exchange Commission of Pakistan Act, 1997 or the 1969 Ordinance or of any rules or direction made or given thereunder and/ or has contravened the rules and regulations of the Exchange and/or has failed to follow any requirement of the code of conduct laid down in the Third Schedule, it may in the public interest, take action under Rule 8(a) or (b) of the Brokers Rules.

8.5 In light of the above i.e. the fact that the Respondent made blank sales, the Respondent has violated the 2002 Regulations thereby attracting sub rule (iii) of Rule 8 of the Brokers Rule and has also failed to comply with Clause A5 of the code of conduct contained in the Third Schedule to the Brokers Rules, thereby attracting sub rule (iv) of the Rule 8 of the Brokers Rule. Accordingly, a penalty of Rs.100,000 (Rupees One Hundred Thousand) is hereby imposed on the Respondent under Rule 8 (b) of the Brokers Rules.

## 9. Order Register

9.1 In terms of Rule 4(1) of the Securities and Exchange Rules 1971 ("**1971 Rules**"), it is provided that:

"All orders to buy or sell securities which a member may receive shall be entered, in the chronological order, in a register to be maintained by him in a form which shows the name and address of the person who placed the order, name and number of the securities to be bought or sold, the nature of transaction and the limitation, if any, as to the price of the securities or the period for which the order is to be valid."

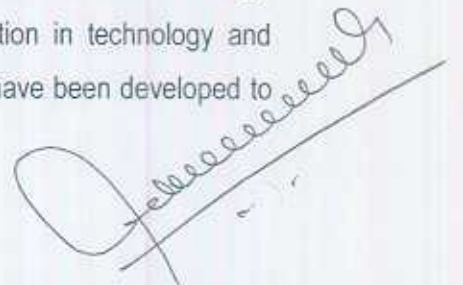
9.2 Findings of the Enquiry Officer revealed that the register as mentioned above was not maintained by the Respondent during the Review Period.

9.3 The Respondent made the following submission on this Issue ("**Issue No. 2**"):

- The Respondent contended that the register as provided above was not possible to maintain due to practical difficulties and computer generated reports are maintained as a solution.

9.4 I have considered the contention of the Respondent and am of the view that the computer generated reports as described by the Respondent are not a substitute for the Order Register as required under the Rule 4(1) of the 1971 Rules, since these reports only record those orders that are placed by the brokerage house into KATS and not the orders received from the clients.

9.5 The Commission is cognizant of the practical difficulties associated with the maintenance of such an Order Register manually and in order to facilitate the brokerage houses in meeting the requirements of the said rule, the KSE is developing a system which will be provided in due course. However, it is noted with disappointment that the brokerage houses and exchanges were not able to keep pace with evolution in technology and significant increase in trading activities whereby a system should have been developed to



enable simultaneous recording of orders received from clients and their incorporation in a database to generate the order register as required under the requirements of the Rule 4(1) of the 1971 Rules.

- 9.6 Considering the above mentioned facts 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 full compliance is made of all the Regulations in future for avoiding any punitive action under the law.

## 10. Order Confirmation

- 10.1 In terms of Rule 4 (4) of the 1971 Rules it is provided that:

"A member executing an order of a customer shall, within twenty four hours of the execution of the order, transmit to the customer a confirmation which shall include the following information, namely:-

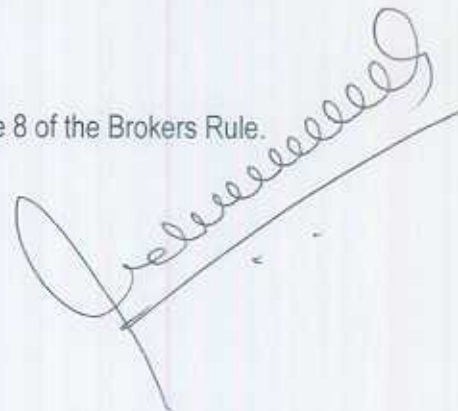
- i. date on which the order is executed
- ii. name and number of the securities;
- iii. nature of transaction (spot, ready or forward and also whether bought or sold);
- iv. price;
- v. commission, if the member is acting as a broker;
- vi. whether the order is executed for the members own account or from the market."

- 10.2 Findings of the Enquiry Officer revealed that confirmations of orders executed were not provided to the clients on a regular basis despite the above legal requirement.

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

- The Respondent contended that it has in place a system of sending the order confirmations to its clients through email on a daily basis. Further, majority of its clientele comprised of retail clients who collect their trade confirmations personally on daily basis.

- 10.4 Considering the above, no punitive action is necessary under Rule 8 of the Brokers Rule.

A handwritten signature in black ink, written in a cursive style, is located in the bottom right corner of the page. The signature is written over a horizontal line that appears to be a signature line.

## 11. CDC Balance statements

11.1 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."

11.2 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 10<sup>th</sup> of each month as required under the CDC Regulations.

11.3 The Respondent made the following submission on this Issue ("**Issue No. 4**"):

- The Respondent contended that the CDC Balance statements are regularly sent to its clients through courier; however, evidence of dispatch of statements was impractical to maintain.

11.4 Considering the above, no punitive action is necessary under section 28 of the CDC Act. I would further direct the Respondent to take measures to maintain evidence of dispatch of CDC Balance statements to its clients in order to demonstrate compliance with the CDC Regulations.

12. 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.2, 3 and 4 and a simple caution will suffice in the case of Issue No. 2. As regards Issue No. 1, as stated above, a penalty of Rs. 100,000/- (Rupees One Hundred Thousand) is hereby imposed, which should be deposited with the Commission not later than fifteen (15) days from the date of receipt of this Order.



Zafar Abdullah  
Executive Director  
Securities Market Division