



Securities and Exchange Commission of Pakistan

Adjudication Division
Adjudication Department-I

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

In the matter of Show Cause Notice issued to BMA Capital Management Limited

Dates of Hearing

December 28, 2020

Order-Redacted Version

Order dated January 08, 2021 was passed by Executive Director/Head of Department (Adjudication-I) in the matter of BMA Capital Management Limited. Relevant details are given as hereunder:

Nature	Details
1. Date of Action	Show cause notice dated May 21, 2020
2. Name of Company	BMA Capital Management Limited
3. Name of Individual*	The proceedings were initiated against the Company i.e. BMA Capital Management Limited and its Compliance Officer.
4. Nature of Offence	In view of alleged violations of 4(a), 18(c)(iii), 6(3)(a), 6(3)(c), 6(4), 9(1), 9(2), 13(1), 13(7), 14(1), 14(3) and 14(4) of AML Regulations through SCN dated May 21, 2020 and order dated January 08, 2021 was passed.
5. Action Taken	<p>Key findings were reported in the following manner:</p> <p>I have gone through the fact of case, the written as well as oral submissions of the Respondent and its Authorized Representatives. In this regard, I observe that:</p> <p>i. The Respondent vide its letter dated January 02, 2020 submitted following to the Commission:</p> <p>"We are currently in the process of redesigning our Risk Assessment and Risk Management Policies which should be completed by the mid of February, 2020. The issues identified by the JIT will be addressed therein</p>



Securities and Exchange Commission of Pakistan

Adjudication Division Adjudication Department-I

and a copy of the said manual shall be shared for your perusal"

The above mentioned response of Respondent depicts that Respondent AML policy was deficient at the time of inspection. Furthermore, the extract of minutes of Board of meeting reflects that Board of Directors of Respondent approved updated AML Policy on February 18, 2020 only to incorporate the newly introduced requirements of National Risk Assessment (NRA). The Respondent cannot absolve himself on the basis of post-inspection rectification of default. Thus, Respondent was in contravention of Regulation 4(a) of the AML Regulations on account of deficient AML policy at the time of Inspection.

ii. The defaults of Regulation 18(c)(iii) were consequential to the default of Regulation 4(a) of the AML Regulations. Therefore, Respondent and its Compliance Officer has contravened Regulation 18 (c) (iii) of the AML Regulations.

iii. It is evident from the below mentioned response to LOF that the Respondent has failed to furnish the required information pertaining to 30 identified instances at the time of Inspection:

"...due to the recent changes in regulatory requirement pertaining to KYC and CDD, documents of some accounts may not be physically in the same binder. This may be the reason behind the JIT not being able to find the documents mentioned. We are in the process of retrieving the required document from our data recall center and are confident that the same shall be obtained shortly. The same shall be shared with the JIT as soon as retrieved successfully. In case a particular document is not received, however, we will make sure that the same is communicated to the JIT along with proof(s) of



Securities and Exchange Commission of Pakistan

Adjudication Division Adjudication Department-I

	<p>further action taken on the case to ensure regulatory compliance."</p> <p>In view of above, violation of Regulation 6(3)(a) of the AML Regulations cannot be denied.</p> <p>iv. In response to Letter of Findings, regarding compliance of Regulation 6(3)(c) in three identified instances, the Respondent submitted that further explanation on source of income/funds of the customers as well as beneficial owners (if any) has been sought from the clients mentioned so as to obtain further clarification between their income/source of funds and trading patterns. The Respondent's response shows that at the time of Inspection, the Respondent was not in possession of required information/documents which were necessary to ensure compliance of Regulation 6(3)(c) of the AML Regulations. During the hearing Authorized representatives could not exhibit pre-inspection efforts on part of Respondent to comply Regulation 6(3)(c) of the AML Regulations.</p> <p>v. With regard to the violation of Regulation 6(4) of the AML Regulations, regarding sixteen instances, it has been noted from the submitted evidence that verifications or Identification documents (CNIC) were made subsequent to identification by Inspection team. Thus, Respondent was in contravention of Regulation 6(4) of the AML Regulations at the time of inspection.</p> <p>vi. With regard to the violations of sub-Regulations (I) and (2) of Regulations 9 or the AML Regulations, the Respondent in response to the Letter of Findings admitted the violations and responded as follows: " the risk rating mechanism of the Respondent follows the requirements of the AML/CFT regulations</p>
--	---



Securities and Exchange Commission of Pakistan

Adjudication Division Adjudication Department-I

and guidelines thereto. The process has not been formally documented yet as mentioned in our response to(1), we are currently in the process of redesigning our risk assessment and risk management policies which should be completed by the mid of February,2020. The issues identified by the JIT will be addresses therein and a copy of the said manual shall be shared for your perusal."

The above response reflects that at the time of Inspection, the Respondent did not had requisite mechanism/procedures in place to categorize risk of clients in High Risk category. Hence, on account of absence of risk assessment and risk management policies, Respondent was in non-compliant with Regulations 9(1) and 9(2) of the AML Regulations.

- vii. With regard to the violations of sub-Regulations (I) and (7) of Regulations 13 of the AML Regulations, the Respondent admitted in response to Letter of Findings, that the requisite information is not available and it is in the process of developing an in house system for the said purpose. Therefore, at the time of Inspection, the Respondent could not furnish any evidence substantiating compliance of the Regulation 13(1) and 13(7) of the AML Regulations. During the hearing, the Authorized Representatives submitted that since April, 2020 database of beneficial ownership of its clients is integrated into the its back-office system and the requisite screening against UNSC/ NACTA list along with on-going monitoring is being performed regularly by the Respondent.
- viii. With regard to the violations of sub-Regulation(1), (3) and (4) of the Regulation 14 or the AML Regulations, regarding sixteen instances, the Respondent informed



Securities and Exchange Commission of Pakistan

Adjudication Division Adjudication Department-I

Inspection team through LOF that further explanation on source of income /funds of the customers as well as beneficial owners has been sought from the highlighted clients. Thus, Prior to identification by inspection team, Respondent has failed to pay any attention to unusual patterns or transactions, which were either inconsistent with the normal operation of account or were not commensurate with the level of income/source of funds of the customer. During the hearing, the Authorized Representatives submitted that Respondent is in the process of obtaining requisite documentations and assess the client(s) transactions/trading vis-a-vis client profile. Therefore, the Respondent cannot deny that it has failed to comply the requirements of Regulation 14 of the AML Regulations in highlighted cases.

- ix. The available record revealed that prior to Inspection by JIT, a Review was also conducted by the Commission to ascertain compliance of AML Regulations. The above-mentioned non-compliances by the Respondent, reflects that Respondent has failed to improve its compliance status with regard to AML regulatory framework.

In view of the foregoing, contraventions of the provisions of Regulations 4(a), I 8(c)(iii), 6(3)(a), 6(3)(c), 6(4), 9(1), 9(2), 13(1), 13(7), 14(1), 14(3) and 14(4) of AML Regulations have been established. Therefore, in terms of powers conferred under section 40A of the Act, a penalty of Rs. 875,000/- (Rupees Eight Hundred Seventy-Five Thousand only) is hereby imposed on the BM/\ Capital Management Limited. However, in reference to Regulation 18 (c) (iii) Compliance Officer or BMA Capital Management Limited is warned to be careful in future. The BMA Capital Management Limited is advised to examine its AML/CFT policy &



Securities and Exchange Commission of Pakistan

Adjudication Division Adjudication Department-I

	<p>procedures to ensure that the requirements contained in the AML Regulations are met in letter and spirit.</p> <p>Penalty order dated January 8, 2021 was passed by Executive Director (Adjudication-I).</p>
6. Penalty Imposed	A Penalty of Rs. 875,000/- ((Rupees Eight Hundred Seventy Five Thousand only) was imposed on respondents to ensure compliance of law in future.
7. Current Status of Order	Appeal has been filed by the respondents

Redacted version issued for placement on website of the Commission.