

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

In the matter of Show Cause Notice issued to Zafar Moti Capital Securities Private Limited

Date of Hearing	December 21, 2020
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Order-Redacted Version

Order dated December 28, 2020 was passed by Executive Director/Head of Department (Adjudication-I) in the matter of Zafar Moti Capital Securities Private Limited. Relevant details are given as hereunder:

Nature	Details
• Date of Action	Show Cause notice dated June 22, 2020.
• Name of Company	Zafar Moti Capital Securities Private Limited.
• Name of Individual	The proceedings were initiated against the Company i.e. Zafar Moti Capital Securities Private Limited.
• 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> <ol style="list-style-type: none">i. In context of violation of Regulation 4(a) of the AML Regulations, the Respondent submitted that its AML policy was duly updated and approved by BOD in 2016, 2018 and 2019. Review of the policy indicates that the deficiencies with respect to AML Regulations were sufficiently covered in its AML/CFT policy approved by the Board on November 20, 2018. However, the respondent failed to appreciate all the deficiencies with respect to NRA update 2019 and the same was rectified in November, 2020 due to which the default has been established. The Respondent was therefore, found non-compliant with Regulation 4(a) of the AML Regulations.ii. As regards to an independent internal audit function it was admitted that the respondent was in default of this requirement since Mr. Muhammad Javed manager/compliance officer was performing the internal audit function. However, it was submitted that subsequently an internal audit officer has been appointed ensuring the independence of internal audit function. However, during the review, the Respondent had failed to demonstrate existence of an independent audit function to test its AML/CFT system in contravention of Regulation 4(d) of the AML Regulations.

- iii. With regards to the observation relating to deficient CDD of 18 clients with respect to the sources of income and non-identification of beneficial owner in case of 1 client it was submitted that the deficiencies for 15 clients with respect to source of income have been removed and beneficial owner in the identified case has also been marked. It is noted that the Respondent has admitted non-compliance, however, steps have been taken to subsequently rectify the same have been taken. The Respondent was therefore, found non-compliant with Regulation 6(3) (a) & 6(3) (c) of the AML Regulations.
- iv. As regards documentation of justification of assigning low risk rating to the clients it was contended that although risk parameters were check marked however, narrative justification was not added. It was further communicated that the respondent is in process of implementation of procedures relating to AML/CFT Regulations and the back office software has been updated. All the procedures are being standardized and as per the requirements of AML/CFT Regulations, 2018. The Respondent expects to complete the implementation by December 2020. The respondent further agreed to add written justification for low risk rating of clients to ensure compliance with the AML/CFT Regulations. In absence of such justification for its low risk customers, the Respondent was found non-compliant with Regulation 11 (2) of the AML Regulations.
- v. With regard to the observation of deficient on-going screening of its clients their beneficial owners, joint account holders, authorized persons, nominees and BODs the Respondent admitted default and stated that it is in in process of implementation of procedures relating to AML/CFT Regulations and the back-office software has been updated. All the procedures are being standardized and as per the requirements of AML/CFT Regulations, 2018. An automated screening system has been acquired from the vendor. The Respondent expects to complete the implementation by December 2020. Due to absence of such on-going screening mechanism for its customers during the review, the Respondent was found non-compliant with Regulation 13(1), 13(3) & 13(4) of the AML Regulations.
- vi. As regards deficient documentation pertaining to decision for filing or otherwise of STR for transaction being commensurate with the level of income the Respondent stated that the instance highlighted in the inspection was the CEO of a listed company and was consistent with the client's trading pattern. It was added that subsequent to the inspection finding the deficient KYC documents of the said client have been acquired. This apparently is the matter of deficient KYC rather than non-recording of documentation.

	<p>vii. With regards to the deficiency in record keeping pertaining to all necessary records on transactions, both domestic and international, including the results of any analysis undertaken (e.g. inquiries to establish the background and purpose of complex, unusual large transactions) for a minimum period of five years from completion of the transaction the Respondent could not provide any satisfactory reply. It was noted that the information was not readily available during the time of inspection. Even in their reply in writing only vouchers were provided with no supporting documentation The Respondent was therefore non-compliant with Regulation 15(1) of the AML Regulations. The Respondent to adopt record keeping practices as prescribed in the AML/CFT Regulations, 2018.</p> <p>viii. With regards to the deficiency in job description of the compliance officer the default was admitted and subsequently rectified. However, the Respondent could not provide any evidence of laid down mechanism for reporting by compliance officer. The Respondent was therefore, found non-complaint with Regulation 18(c) of the AML Regulations.</p> <p>ix. In view of the aforesaid it is my considered view that Respondent prior to the inspection and the proceedings at hand did not grasp the severity of issues being addressed by the AML/CFT' regime. The Respondent had a fiduciary responsibility to ensure compliance of the Mandatory legal framework. The laxity shown by the Respondent has exposed it to the breach of mandatory provisions, which is liable to penalty. Further, the Respondent is in the process to ensure compliance with AML/CFT Regulations. However, the respondent company needs to further strengthen the screening and diligence processes in accordance with AML Regulations.</p> <p>x. In view of the foregoing facts, I am of the considered view that flagrant and multiple violations of the provisions of the AML Regulations have been established. Therefore, in terms of powers conferred under section 40A of the Act, a penalty of Rs. 600,000/- (Rupees Six Hundred Thousand only) is hereby imposed on the Company.</p> <p>Penalty Order dated December 28, 2020 was passed by Executive Director (Adjudication-I).</p>
<ul style="list-style-type: none"> Penalty Imposed 	Penalty of 600,000/- (<u>Rupees Six Hundred Thousand only</u>) was imposed.
<ul style="list-style-type: none"> Current Status of Order 	No appeal was filed against the Order.

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