

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

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

Date of Hearing	December 18, 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 Datto Securities Private Limited. Relevant details are given as hereunder:

Nature	Details
• Date of Action	Show Cause notice dated July 15, 2020.
• Name of Company	Datto Securities Private Limited.
• Name of Individual	The proceedings were initiated against the Company i.e. Datto Securities Private Limited through its Chief Executive Officer.
• Nature of Offence	Proceedings under SECP (AML/CFT) Regulations, 2018 read with 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:</p> <p>(i) The Company has stated that AML policy was provided to JIT vide email dated March 5, 2020; however, the AML policy was duly approved by the Board of Directors of the Company on July 1, 2020. Review of the Company's AML Policy submitted to JIT revealed that it did not include the requirements of Beneficial Owner of legal persons and legal arrangements, and appointment of compliance officer. It was not updated with regard to the requirements of Regulation 7(1) (b), (c) & (d) of the Regulations. In response to the Letter of Findings, the Company asked the JIT to provide details of such deficiencies in order to incorporate them. These deficiencies constitute violations of Regulation 4(a) of AML Regulations.</p> <p>(ii) In order to carry out Customer Due Diligence under the Regulations, the Company was required to identify the beneficial owners of its clients and obtain, inter alia, copies of proof of income/ funds from them. In response to LOF, the Company stated that the available information had already been provided and if the clients did not provide the remaining information, their accounts would be closed. However, it is evident from the examination of the record/ files of specified 9 clients that the Company did not identify the beneficial owners of the clients</p>

	<p>and also did not obtain evidence of source of income/ funds from them which constitute violation of Regulation 6(3)(a) & (c) of the Regulations.</p> <p>(iii) On the issue of non-validation of CNICs of its clients through INADRA Verisys, the Company is of the view that the validation could not be carried out as NADRA did not give access to the Verisys until the SECP took up the matter with NADRA vide its letter dated March 29, 2020; the Company also took up the matter with NADRA vide its letter dated April 3, 2020 but its request has not yet been entertained. A copy of email dated October 19, 2020 from the Pakistan Stock Brokers Association to SECP's AML Department was also shared wherein the matter of pending applications for access to NARDA Verisys was mentioned. The Company should have exhausted all means to get access to NADRA Verisys in order to validate CNICs of its clients. However, it has been observed that NADRA validation of CNICs of 10 specified clients was not carried out which constitutes violation of the requirement of Note (i) to the Annexure-I to the Regulations read with Regulation 6(4) of the Regulations.</p> <p>(iv) The Company did not obtain the requisite documents pertaining to a specified corporate client in compliance of Regulation 7(1) of the Regulations. The Company has admitted that a few documents are missing and it has closed its account on August 6, 2020. As regards the specified Trust, it was apprised during the hearing that the Trust has been categorized as high risk and it is well known to Directors of the Company. However, the Company did not obtain information on the nature of business and ownership and control structure and it also did not identify and verify the identity of the natural persons who own or have ultimate controlling interest in the specified legal persons. Therefore, violations of Regulation 7(1) (a) & (b) were committed. The review of reply of the Company indicates that accounts of the specified corporate client was closed and risk categorization was assigned to the Trust after receiving the findings on non-categorization through LOF. Thus, default of Regulation 6(8) of the Regulations was made.</p> <p>(v) The Company has stated the reason for not recording the justification in writing for categorizing the specified 7 clients as "low risk" that they have been associated with the Company before even promulgation of the Regulations. The Company has also stated that certain checklist is also filled up for this purpose. Though the Company has subsequently started recording the justification but it has committed violation of the requirements of Regulation 11(2) of the Regulations.</p> <p>(vi) In response to the observation communicated through letter of findings, the Company submitted that it did not maintain a database for screening of beneficial owners as the same was being mentioned in the KYC portion of Account Opening Form (AOF). The Company did not provide evidences regarding periodic screening of its client's database. The Company has stated that it manually screens the names of beneficial owners which are noted on KYC Forms/ AOF against the list of proscribed persons. The absence of record of identification and</p>
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	<p>screening of beneficial owners, directors, trustees, shareholders, authorized persons, etc. constitutes violation of Regulation 15(3) of AML Regulations, 2018, which requires that all such record shall be maintained for a minimum period of five years after termination of the business relationship. Therefore, the Company has violated Regulation 15(3) of the Regulations.</p> <p>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. 310,000/- (Rupees Three Hundred Ten Thousand only) is hereby imposed on the Company. The Respondent is advised to examine its AML/CFT policy & procedures to ensure that the requirements contained in the AML Regulations are met in letter and spirit.</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 310,000/- (<u>Rupees Three Hundred Ten Thousand only</u>) was imposed.
<ul style="list-style-type: none"> Current Status of Order 	Appeal was filed against the Order.

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