



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

Fairtrade Capital Securities (Private) Limited (formerly Muhammad Hussain Adhi)

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)

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Number and date of Notices	SMD-SOUTH/SCN/113/07 dated September 27, 2007
Date of hearing	October 11, 2007
Present	None on behalf of the Respondent
Date of Order	November 2, 2007

**ORDER**

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1. This Order shall dispose of the proceedings initiated through Show Cause Notice SMD-SOUTH/SCN/113/07 dated September 27, 2007 issued to **Fairtrade Capital Securities (Private) Limited (formerly Muhammad Hussain Adhi)** (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 (Guarantee) Limited (the "**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 Ford Rhodes Sidat Hyder & 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 and Regulations for Short Selling under Ready Market, 2002 ("**2002 Regulations**"), 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 7, 2007 which required 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. At the hearing no one appeared on behalf of the Respondent nor was any written response submitted to the Show Cause Notice. Since no intimation was given by the Respondent as regards its inability to attend the hearing, the matter was proceeded ex parte since it was clearly stated in the Show Cause Notice that in the event of failure on part of the Respondent, to explain in writing and/or to attend the hearing in person and/or through its authorized representative as stated above, the Commission may pass such order as it considers appropriate in accordance with law. Hence, the issues in respect of which the Show Cause Notice was issued and the findings of the Commission on the same are as follows:

**7. Blank Sales (Issue No.1)**

7.1 In terms of Regulation 4 of the 2002 Regulations, blank sales are not permissible. The findings of the Enquiry Officer revealed 194 instances of blank sales during the Review Period.

7.2 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.

7.3 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 Rule 8 of the Brokers Rule. Accordingly, a penalty of Rs.75,000 (Rupees Seventy Five Thousand) is hereby imposed on the Respondent under Rule 8 (b) of the Brokers Rules.

**8. Order Register (Issue No.2)**

8.1 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."

- 8.2 Findings of the Enquiry Officer revealed that the register as mentioned above was not maintained by the Respondent during the Review Period.
- 8.3 Despite the fact that the Respondent did not attend the hearing or submit a written response, 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 to the brokerage houses 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.
- 8.4 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 laws and Regulations in future for avoiding any punitive action under the law.

**9. CDC Balance statements (Issue No.3)**

- 9.1 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."

- 9.2 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.
- 9.3 In terms of Section 28 read with Section 3 of the CDC Act, it is provided that the Commission can impose a penalty for contravention or an attempt to contravene any provision of the CDC Act or CDC Regulations. Since by not sending the CDC Balance Statements to its client by the 10<sup>th</sup> of each month the Respondent has violated Regulation 6.2A.1 of CDC Regulations, I am of the view that a penalty of Rs.25,000 (Rupees Twenty Five Thousand) be imposed on the Respondent.
10. In view of what has been discussed above, I am of the considered view that no punitive action is necessary in relation to Issue No. 2 and a simple caution will suffice. As regards Issues No.1 and 3 penalties of Rs. 75,000 (Rupees Seventy Five Thousand) and Rs.25,000 (Rupees Twenty Five Thousand) are respectively imposed. These penalties 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