

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

In the matter of Show Cause Notice issued to M/s. Falki Capital (Pvt) Limited

Date of Hearing

July 22, 2020

Order-Redacted Version

Order dated August 12, 2020 was passed by Executive Director/Head of Department (Adjudication-I) in the matter of Falki Capital (Pvt) Limited. Relevant details are given as hereunder:

| Nature | Details |
|------------------------|---|
| 1. Date of Action | Show cause notice dated May 19, 2020 |
| 2. Name of Company | Falki Capital (Pvt) Limited |
| 3. Name of Individual* | Not relevant. The proceedings were initiated against the Company i.e. Falki Capital (Pvt) Limited. |
| 4. Nature of Offence | Proceedings under Section 40A of SECP Act, 1997 for the violations of Regulation 6(3)(a), 3(1)(a), 9(4), 10(3) and Regulation 6(4) read with Annexure I (note i) of the AML and CFT Regulations, 2018. |
| 5. Action Taken | <p>Key findings of default of Regulations were reported in the following manner:</p> <p>I have examined the written and oral submissions of the Respondent and its Representative. In this regard, I observe that:</p> <ol style="list-style-type: none">i. With regard to the observation regarding the NADRA Verisys system, the Respondent submitted that they currently have only 6 active clients UIN for which NADRA Verisys has been conducted. However, during the review, the evidence with respect to the clients active/ non-active status was not provided. Further, the inactivity of clients does not absolve the responsibility of the Respondent to conduct verification of identity documents. The Respondent during the hearing contended that they were in the process of closing the accounts and reducing clientele. However, the closure status was not confirmed by the Respondent during the review. 25 clients were identified for which NADRA Verisys was not performed due to which the Respondent was |



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found in contravention of Regulation 6(4) of the AML Regulations read with Annexure I(Note i) of the AML Regulations.

- ii. With regard observation regarding the PEP, the Respondent contended that the said client account was opened towards the end of April, 2016. At that time the client had already retired from politically exposed position. Further, the client account was dormant between 2017 and 2019 and the business relationship with the client has been terminated in 2019. The inspection team had observed that the closure status was provided subsequent to the observation highlighted during the review. Further, the client held major politically exposed positions in the past. Moreover, Regulation 2(t)(ii) of the AML Regulations prescribes the definition of PEP which states that:

"domestic PEPS, individuals who are or have been entrusted domestically with prominent public functions, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state-owned corporations, important political party officials"

Therefore, in view of the above definition the PEP status of the client could not be ignored even if such position was held in the past. Therefore, in my view the observation of the inspection team stands current and the Respondent had failed to classify the said client as high risk in light of its PEP status and further, did not perform Enhanced Due Diligence of the client. The Respondent was therefore, found non-compliant with Regulation 3(1)(a), 9(4), and 10(3) of the AML Regulations.

- iii. With regard to the observation regarding the KYC/CDD of joint account holders, the Respondent submitted that out of 10 joint accounts highlighted during the review, 03 accounts were already closed and KYC/CDD for 1 joint account holder was submitted. The Respondent had failed to provide evidence of KYC/CDD of joint accounts for remaining 9 clients accounts. Further, the closure status of these client accounts was provided subsequent to the inspection. Therefore, the Respondent was found in contravention of Regulation 6(3)(a) of the AML Regulations.

In view of the foregoing and admission made by the Representatives, contraventions of the provisions of AML Regulations have been established. Therefore, in terms of powers conferred under section 40A of the Act, a penalty of Rs. 260,000/- (Rupees Two Hundred and sixty Thousand Only) is hereby imposed on the Respondent.



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| | Penalty Order dated August 12, 2020 was passed by Executive Director (Adjudication-I). |
| 6. Penalty Imposed | A penalty of Rs. 260,000/- (Rupees two hundred and sixty thousand only) was imposed on the Company. |
| 7. Current Status of Order | No appeal was filed. |

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