

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

In the matter of Show Cause Notice issued to Fikree's Private Limited

Date of Hearing	November 03, 2020
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Order-Redacted Version

Order dated November 17, 2020 was passed by Executive Director/Head of Department (Adjudication-I) in the matter of Fikree's Private Limited. Relevant details are given as hereunder:

Nature	Details												
<ul style="list-style-type: none">Date of Action	Show Cause notice dated June 19, 2020.												
<ul style="list-style-type: none">Name of Company	Fikree's Private Limited.												
<ul style="list-style-type: none">Name of Individual	The proceedings were initiated against the Company i.e. Fikree's Private Limited and its Compliance Officer.												
<ul style="list-style-type: none">Nature of Offence	Proceedings under Section 40A of the Securities and Exchange Commission of Pakistan Act, 1997.												
<ul style="list-style-type: none">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> <ul style="list-style-type: none">Respondent submitted that requisite reports as envisaged in Regulation 13 (1) of the AML Regulations are now produced by the Respondent after getting guidance from their software vendor. Therefore, violation of Regulation 13(1) of AML Regulations on part of Respondent, at the time of inspection cannot be denied.With regard to the violation of Regulation 6(3)(c), in three instances the Respondent did not provide evidence of their sources of income at the time of Inspection and its details are as follows: <table border="1"><thead><tr><th>S.No.</th><th>CDC Sub-account</th><th>Client</th><th>Inspection team comment</th></tr></thead><tbody><tr><td>1.</td><td>1947</td><td>Client 1</td><td>The Securities brokers had not shared any documentary evidence with respect to the source/evidenced of source of income of the client.</td></tr><tr><td>2.</td><td>1418</td><td>Client 2</td><td>The Securities brokers had not shared any documentary evidence with respect to the source/evidenced of source of</td></tr></tbody></table>	S.No.	CDC Sub-account	Client	Inspection team comment	1.	1947	Client 1	The Securities brokers had not shared any documentary evidence with respect to the source/evidenced of source of income of the client.	2.	1418	Client 2	The Securities brokers had not shared any documentary evidence with respect to the source/evidenced of source of
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1.	1947	Client 1	The Securities brokers had not shared any documentary evidence with respect to the source/evidenced of source of income of the client.										
2.	1418	Client 2	The Securities brokers had not shared any documentary evidence with respect to the source/evidenced of source of										

			income of the client.
3.	931	Client 3	The Securities brokers had not shared any documentary evidence with respect to the source/evidenced of source of income of the client.

During the hearing, the Authorized Representatives admitted contravention of the said Regulation of the AML Regulations and claimed that subsequent to the Inspection, the Respondent has rectified the default.

- During the hearing, in ten instances the Authorized Representatives of the Respondent admitted the default of Regulation 6(8) in identified instances and submitted rectified KYC/CDD Forms exhibiting risk rating of clients as stipulated in Regulation 6(8) of the AML Regulations. However, the deficiencies were removed subsequent to the Inspection.
- The Authorized Representatives during the hearing admitted that compliance was deficient with regard to recording of justification for categorizing two customers as low risk. In one instance, the Respondent is still in the process of getting requisite documentation. The default of Regulation 11(2) of the AML Regulations in the identified instances cannot be denied.
- With regard to the violation of Regulation 4(d) of the AML Regulations, the Authorized Representatives of the Respondent submitted during the hearing that Respondent have already been penalized on default of requirement of having independent audit function through Commission’s Order dated July 22, 2020. In this regard. Authorized Representatives were clarified that the earlier penalty/Order was on account of defaults identified in Commission’s limited scope thematic review with a different review period. However, now the Respondent is again found non-compliant of the said Regulation as revealed by the subsequent Inspection; therefore. Respondent has for a second time contravened Regulation 4(d) of AML Regulations. Though Respondent claimed that Mr. Sabih Salah Khan is the Auditor of the Respondent, yet Authorized Representatives could not provide any post-inspection evidence to substantiate the claim of the Respondent.
- The Respondent did not provide any post-inspection evidence of maintaining database of beneficial owners of its clients, enabling it to perform screening of beneficial owners/proscribed persons to substantiate that it was complying with the provisions of Regulation 4(a)

	<p>and 13(7) of the AML Regulations. During the hearing, the Authorized Representatives admitted the violation of the aforesaid Regulations and claimed that defaults have been rectified subsequent to the Inspection.</p> <ul style="list-style-type: none"> • The Respondent did not provide any post-inspection evidence of having procedures to ensure compliance with the AML / CFT Regulations to substantiate that it was complying with the provisions of Regulation 18(c)(iii) of the AML Regulations and the requirements of Clause 6(iii) of AML/ CFT guidelines. The Authorized Representatives, during the hearing, admitted the violation of the said Regulations and claimed that default has been rectified subsequent to the inspection. Further, during the course of hearing, it was observed that the Compliance Officer, of the Respondent is not well versed with the Regulatory framework and the obligations thereunder and therefore, needs training to understand the requirement of the AML Regulations. • In view of the foregoing and admission made by the Representatives, contraventions of the provisions of Regulations 13(1), 6(3) (c), 6(8), 11(2), 4(d), 4(a), 13(7) and 18(c)(iii) of AML Regulations have been established. Therefore, in terms of powers conferred under section 40A of the Act, a penalty of Rs. 500,000/- (Rupees Five Hundred Thousand only) is hereby imposed on the Fikree's Private Limited. <p>Penalty Order dated November 17, 2020 was passed by Executive Director (Adjudication-I).</p>
<ul style="list-style-type: none"> • Penalty Imposed 	Penalty of 500,000/- (Rupees Five Hundred Thousand only) was imposed.
<ul style="list-style-type: none"> • Current Status of Order 	An appeal has been filed against the Order.

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