

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

In the matter of Show Cause Notice issued to First Equity Modaraba

Date of Hearing

December 04, 2019

Order-Redacted Version

Order dated April 24, 2020 was passed by Executive Director/HOD (Adjudication-I) in the matter of First Equity Modaraba. Relevant details are given as hereunder:

Nature	Details
1. Date of Action	Show cause notice dated October 25, 2019
2. Name of Company	First Equity Modaraba
3. Name of Individual*	Not relevant. The proceedings were initiated against the Company i.e. First Equity Modaraba
4. Nature of Offence	Proceedings under Section 40A of SECP Act, 1997 for violations of inter-alia Regulation 4(d) of AML and CFT Regulations, 2018 and Regulation 29(5) & 16(9)(e) of the Licensing Regulations
5. Action Taken	<p>Key findings of default of Regulations were reported in the following manner:</p> <p>I have examined the submissions of the Respondent and its Representatives. In this regard, I observe that:</p> <p>(a) With regard to the deficiencies in AML/CFT Policy, the Respondent denied the allegation and provided that the two points as highlighted in the SCN were adequately addressed in their earlier policy which was also shared with the Commission. The need for Enhanced Due Diligence and employee trainings and controls and procedures thereof, were previously provided in Para 9.1 & 20 of the Respondent's AML/CFT Policy respectively. The viewpoint of the Respondent in this regard is tenable hence, it cannot be held accountable in the matter.</p>



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- (b) With regard to the reporting of Compliance Officer to CEO and/ or head of internal audit/committee in contravention with the AML Regulations, it may be noted that Regulation 18 (a) of the AML Regulations provides room for the reporting of compliance function to Board of Directors or to another equivalent position or committee therefore, the Respondent cannot be held accountable in the matter. However, it was observed that monthly compliance reports were not being prepared by the compliance officer and no evidence in this regard was provided by the Respondent. Therefore, in absence of monthly compliance report, the Respondent was found non-compliant with Regulation 29(5) of the Licensing Regulations.
- (c) With regard to observation regarding the independence of audit function, the Respondent provided that the effectiveness and independence of the audit function may not be questioned merely due to the reporting structure as the head of internal audit administratively report to the Chief Executive and functionally to the internal audit committee. The reply of the Respondent to this extent is tenable. However, it was observed that the internal audit report did not include independent assessment of its AML/CFT systems rather it relied on the observations made by the compliance officer and did not cover detailed aspects of AML/CFT as provided in the AML Guidelines. Therefore, the Respondent was found non-compliant with Regulation 4(d) of the AML Regulations & 16(9)(e) of the Licensing Regulations.
- (d) With regard to the observation regarding the EDD of 3 high risk clients, the Respondent submitted that it had reported only 3 high risk clients on the basis of default on trade settlement and not on the issue of KYC/CDD. The Respondent further provided that last trade in these accounts was carried out more than a decade ago and currently these accounts have been marked as blocked not only in their back-office system but at CDC also. The Respondent's reply in this regard is tenable hence, it cannot be held accountable in the matter of violation of Regulation 9 of the AML Regulations.



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	<p>In view of the foregoing and admission made by the Representatives, contraventions of the provisions of AML Regulations & Licensing Regulations have been established. Therefore, in terms of powers conferred under section 40A of the Act, a penalty of Rs. 200,000/- (Rupees two hundred thousand only) is hereby imposed on the Respondent. Further, in terms of powers conferred under section 150 of the Securities Act 2015, a penalty of Rs. 50,000/- (Rupees fifty thousand only) is also imposed on the Respondent.</p> <p>Penalty order dated April 24, 2020 was passed by Executive Director (Adjudication-I)</p>
6. Penalty Imposed	A penalty of Rs. 250,000/- (Rupees two hundred and fifty thousand) was imposed on the Company in aggregate.
7. Current Status of Order	No appeal was filed.

Redacted version issued for placement of website of the Commission.