

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

In the matter of Show Cause Notice issued to First National Equities Limited

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| Date of Hearing | September 30, 2020 |
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Order-Redacted Version

Order dated November 18, 2020 was passed by Executive Director/Head of Department (Adjudication-I) in the matter of First National Equities Limited. Relevant details are given as hereunder:

| Nature | Details |
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| • Date of Action | Show Cause notice dated July 29, 2020. |
| • Name of Company | First National Equities Limited. |
| • Name of Individual | The proceedings were initiated against the Company i.e. First National Equities Limited through its Chief Executive Officer. |
| • Nature of Offence | Proceedings under 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 in the following instances:</p> <p>i. For screening related issues of customers, following observations are relevant:</p> <p>a. Initially at the time of inspection, the Company was not maintaining database with relevant details of board of directors of corporate clients, and trustees of trusts. The Company, however, submitted its revised database to the inspection team. As per available information, the inspection team duly reviewed the revised database of customers and their beneficial owners, as maintained in MS Excel sheet, as provided by the Company during the course of inspection. Submission of revised database containing relevant information, however, does not exonerate the Company for non-compliance.</p> <p>b. The Inspection team highlighted that screening did not contain results of customers/nominee/joint account holders/authorized persons/BODs/trustees and office bearers from the list of proscribed persons. The database maintained by the Company did not contain CNICs for screening purposes and just included name/s of beneficial owners in relation to main account holders. The Company informed that all the clients were intimated to update their data regularly and those who failed to provide updated data were being blocked for trading. The Company in its reply to the SCN did not provide any screening results nor submitted evidence that results of screening were shared with the</p> |

inspection team. The Authorized Representative informed that screening was being carried out and also relied on six monthly compliance reports that were submitted to the higher management as evidence of screening results. When report dated January 7, 2020, as shared by the inspection team, was reviewed, it, however, did not contain any periodic screening details of customers/nominees/joint account holders/authorized persons/BODs/trustees and office bearers.

- c. For maintaining relevant record of screening of customers, nominees, joint account holders, authorized persons, BODs and trustees, it was highlighted that the screening performed by the Company did not have date/s of such screening. Moreover, the Company also did not provide fortnightly compliance reports submitted to the NCCPL. During the hearing proceedings, the Authorized Representative duly admitted this fact that screen shots of screening were being printed, at the relevant time of inspection, without date and subsequently the vendor was requested and screen shots were used to be printed date wise. The Authorized Representative informed that it was not intentional on part of the Company. Non-availability of date was screening information shows that risk management and mitigation system was questionable and relevant evidence was not substantiating at the time of inspection. The Company in its written response also furnished that screening evidence submitted to the NCCPL was duly provided and evidence of screen shot where date was not available was by default.

The Company, having a large customer base needs to update its information about customers, authorized persons, nominees and beneficial owners and trustees. Moreover, at the relevant time of inspection, due to absence of date/s of screenshots of periodic screening results, and non-availability of complete information and absence of any timely follow up actions to update relevant information of the customers, hence, the Company's record was not maintained and was not in compliance of the requirements of the Regulation 4(a), 13(3) and 13(7) and 15(3) of the AML Regulations and SRO 1110(1)/2010.

- ii. The Company provided AML policy and procedures approved by its board of directors on October 29, 2019. When inspection team highlighted that few requirements of the AML Regulations were not given therein, the Company shared a revised policy. During the course of aforesaid proceedings, the Authorized Representative shared 18 pages of the AML policy which was again shared with Broker Compliance Department (BCD) for its comments. BCD vide its email dated November 10, 2020 informed: "JIT team has confirmed that the Company has provided them with AML Policy. However, the same was not provided to SECP earlier with JIT inspection record, therefore, the same was not considered while preparing ARN. "
- iii. For the purpose of effective monitoring, submission of monthly compliance reports to the board in this regard, the Company in its response informed that compliance reports had been submitted to the BOD regularly, however, was unable to provide the copies of the same to the inspection team due to limited access to the physical record

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| | <p>because of COVID 19. When LOF was shared, the Company did not provide any comment in the checklist worksheet to rectify the aforesaid observation of non-submission of compliance reports. During the course of the proceedings, the Company furnished copies of monthly compliance reports dated January 2, 2020, February 3, 2020 and March 2, 2020. I, am of the view that compliance officer was responsible for sharing the monthly compliance reports with the inspection team, which would justify effective monitoring. The Company's stance, however, for subsequently sharing monthly compliance reports for the aforesaid three months, and failure to do so at the relevant time of inspection, does not exonerate from non-compliance of the requirements of Regulation 18(a) and Regulation 18(c)(v) of the AML Regulations.</p> <p>iv. In 6 instances highlighted by the inspection team for relevant provision of enhanced due diligence (EDD) related documents, it was informed that all the details regarding occupation and source of income had been provided. The Company informed that approval from senior management had already been taken but was unable to provide the same due to limited access to the physical record because of COVID-19. The Company has provided a copy of letter written by compliance officer vide dated February 17, 2020 addressed to Executive Director for approval of the continuity of accounts for the purpose of EDD. Subsequent to hearing held, the Authorized Representative also shared copies of bank statements relating to three customers. The aforesaid supporting documents were not shared with the inspection team. Relevant supporting documents for customers (CDC A/c number 74225, CDC A/c number 80040, CDC A/c number 74860, and CDC A/c number 76360 were not provided. Moreover, letter seeking approval of senior management for EDD was of dated February 17, 2020 and that was of subsequent from date of start of inspection i.e. December 1, 2019. The Company's EDD measures were hence deficient and in non-compliance of the requirements of Regulation 9(4) (a) (b) and (c) of the AML Regulations.</p> <p>v. As per available information the following was observed;</p> <p>(i) In 8 instances of individual customers, the Company did not perform the validation of identity documents from NADRA Verisys</p> <p>(ii) In 2 instances of corporate customers, the Company did not perform the validation from the NADRA Verisys of CNICs of 2 directors, 9 trustees and 3 authorized persons</p> <p>(iii) In 6 instances, the Company did not perform validation from the NADRA Verisys of CNICs of the nominees of the aforesaid customers.</p> <p>The Company stance is that NADRA was not providing the Verisys Facility to the stock brokers as per its policy. The Company also shared correspondence of the Commission made vide letter dated March 29,</p> |
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2020 to DG NADRA to resolve the issue. The stance taken by the Company is not substantive as AML Regulations came into effect in the year 2018 and despite lapse of 2 years, the Company is in non-compliance with the requirements of note (i) of annexure-I of Regulation 6(4) of the AML Regulations.

- vi. In case of a customer for relevant supporting documents related to beneficial owners, including bank statement and tax deduction certificate of 2019, the Company informed that documents were generated as ongoing monitoring before the audit. As supporting evidence, salary slip for the month of August 2019 was also furnished. As stated, the salary slip was of beneficial owner of the customer. The Company informed that the same could not be provided earlier because of the limited access to physical data due to COVID-19 and work from home facility.
- vii. In case of a customer, whose account was opened on April 22, 2015, and was mentioned as student in Account Opening Form. The inspection team reported that aforesaid customer was working as Branch Manager at a renowned shopping Mall in Lahore, however, the Company did not update his occupation details. The Company is of the view that the said customer recently started his job and provided his salary slip during ongoing monitoring which was provided during the audit and his occupation details were updated afterwards due to COVID-19 and work from home facility. The Company during the course of proceedings, however, did not furnish any evidence in this regard. The aforesaid is sufficient to substantiate that at the relevant time of inspection, relevant supporting documents were not furnished in compliance of the Regulation 13(1) of the AML Regulations.
- viii. In one case of a customer's account was opened on July 26, 2017, and her occupation was mentioned as house wife, having custody of Rs. 209,213 as on February 29, 2020. For her source of income and for identification of beneficial ownership detail, the Company has furnished a copy of bank statement of the period July 1, 2019 to December 31, 2019 and salary slips for the months of June and July 2019. The Company informed that source of income of the beneficial owner had already been gathered during ongoing monitoring. In view of non-submission of supporting documents to the inspection team during the course of inspection, and that bank statement of the beneficial owner was of the period ended December 31, 2019, which was subsequent to the start of the inspection period i.e. December 1, 2019, hence, such documents were arranged subsequently. At the relevant time of inspection, the Company hence violated the requirements of Regulation 6(3) (a) ad Regulation 6(3) (c) of the AML Regulations.

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. 475,000/- (Rupees Four Hundred Seventy Five Thousand**

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| | <p>only) is hereby imposed on the Respondent 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 November 18, 2020 was passed by Executive Director (Adjudication-I).</p> |
| | <p>Penalty of 475,000/- (<u>Rupees Four Hundred Seventy Five Thousand only</u>) was imposed.</p> |
| <ul style="list-style-type: none"> • Current Status of Order | <p>Appeal has been filed against the Order.</p> |

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