

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

In the matter of Show Cause Notice issued to First Street Capital Private Limited

Date of Hearing	October 05, 2020
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Order-Redacted Version

Order dated October 08, 2020 was passed by Executive Director/Head of Department (Adjudication-I) in the matter of First Street Capital Private Limited. Relevant details are given as hereunder:

Nature	Details
• Date of Action	Show Cause notice dated July 13, 2020.
• Name of Company	First Street Capital Private Limited.
• Name of Individual	The proceedings were initiated against the Company i.e. First Street Capital Private Limited through its Chief Executive and Compliance 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 two non-resident customers, the Company has submitted its risk categorization dated August 30, 2020, in terms of which the aforesaid customers were categorized as "high" risk. Moreover, the Company has submitted extract of resolution passed by directors in their meeting held on April 24, 2020, in terms of which non-resident customers are subject to EDD, as given: "It is resolved & approved that any non-resident / resident account will be approved subject to Enhance Due Diligence particularly under the regulations and any such individual or company falling under clause 9(4)(a) of AML Regulation will be further scrutinized and enhance due diligence will be initiated. Further it was resolved in this meeting that for any cheque over Rs. 100,000/-, proof of funds will be required to comply with the AML Regulations where it was deemed necessary. The aforesaid clearly reflects that subsequent to initiation of inspection, the Company has taken steps to rectify defaults, which was duly admitted by the Authorized Representative as well. Moreover, as per information shared the aforesaid customers were inactive since 2010 and 2018 respectively due to no transactions recorded in their respective accounts. Subsequent to inspection, the Company categorized the aforementioned 02 non-resident customers as "high risk", however, no approval of senior management was made available. I am of the view that inspection is sample based, and the fact that the</p>

	<p>directors in their meeting held on April 24, 2020 i.e. subsequent to initiation of inspection, resolved to carry EDD of its non-resident customers, hence, at the relevant time, the Company violated Regulation 9(4) (a) of the AML Regulations.</p> <p>ii. For screening of beneficial owners of the clients and corporate clients, and for non-maintenance of database of beneficial owners of its corporate clients for the purpose of periodic screening, the Company has submitted screening reports dated August 28, 2020 wherein however it is not clear that what items were searched during screening process and moreover, the reports are of subsequent period.</p> <p>iii. The Company has submitted its AML Policy as approved by the board of directors vide dated April 16, 2020 and the same policy was shared with the inspection team. It has been submitted that policy has been updated by incorporating the following: "Pakistan is host to approximately 1.4 million registered and 1.0 million unregistered Afghans. In 2007, Pakistan, Afghanistan and the Office of the United Nations of High Commissioner for Refugees (UNHCR) signed a tripartite agreement, which gave Afghan refugees the right to register and obtain a Proof of Registration (POR) Card, identifying them as Afghan refugees eligible for protection and support through UNHCR under Pakistan refugee laws". I am of the view that said updating in AML Policy is subject to review by the supervision team of the Commission. However, necessary updating of AML Policy in board meeting held on April 16, 2020 necessitates that AML Policy was updated subsequent to initiation of inspection. Hence, the Company has violated Regulation 4(a) of the AML Regulations, for not updating its policy sufficient enough to mitigate ML/TF risks as per requirements of AML Regulations.</p> <p>iv. As per relevant information, the Commission from time to time sent files via emails that contained names of proscribed persons to review timely reporting of screening reports. The Company has duly admitted that printout of two emails sent to the Company could not be preserved, which shows deficiency in record keeping.</p> <p>v. As supporting evidences, the Company has submitted e-sahulat NADRA Verisys reports dated April 21, 2020 of its mentioned customers. Moreover, it has been informed that vide letter dated September 16, 2020, NADRA allowed online verification system to the Company. Hence, steps were taken to ensure compliance subsequent to initiation of inspection. The Company, therefore, violated requirements of note (i) of Annexure-I of Regulation 6(4) of the AML Regulations.</p> <p>vi. For ongoing monitoring and sources of income of mentioned customers, I am of the view that following deficiencies exist (i) in case of 'fard' dated January 23, 2020 was submitted evidencing his</p>
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	<p>ownership of land as source of income (ii) in case of a customer tax return for the year 2019 was furnished having print date of August 25, 2020 (iii) salary slip for the month of July 2020 of another customer was provided for disclosing his source of income. The Respondents, however, cannot exonerate themselves by merely obtaining relevant documents depicting the source of income of the said customer, rather vigilance was essentially required and needed to be proved substantially to appropriately monitor and report suspicion transactions.</p> <p>The aforesaid shows that relevant supporting documents evidencing sources of income and for the purpose of ongoing monitoring were obtained subsequent to the initiation of inspection despite the respective customers were in business relationship for preceding periods. The Company though showed seriousness in ensuring compliance, however, needs to take measures to ensure compliance of the Regulation 6(3)(c), Regulation 130 Regulation 14(4), and Regulation 14(6) of the AML Regulations in given cases.</p> <p>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. 100,000/- (Rupees One Hundred Thousand only) is hereby imposed on the Coompany. 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 October 08, 2020 was passed by Executive Director (Adjudication-I).</p>
<ul style="list-style-type: none"> Penalty Imposed 	Penalty of 100,000/- (Rupees One Hundred Thousand only) was imposed.
<ul style="list-style-type: none"> Current Status of Order 	No Appeal was filed against the Order.

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