



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
SPECIALIZED COMPANIES DIVISION
ADJUDICATION

Before the Commissioner (SCD)

In the matter of Show Cause Notice under Section 40A of the Securities and Exchange Commission of Pakistan Act, 1997 for violations of, inter-alia, Regulation 7(1)(b), Regulation 11(2), Regulation 6(5)(a) of the SECP AML and CFT Regulations read with point # 17 (vii) of Guidelines on SECP AML and CFT Regulations.

Date of hearing:

September 3, 2019

Present (on behalf of HBL Asset Management Limited)

- i. Mr. Noman Qurban, CFO
- ii. Mr. Mubeen Ashraf Bhimani, Head of Compliance

Assisting the Commissioner (SCD)

- i. Ms. Bushra Aslam, Executive Director
- ii. Ms. Tanzila Nisar Mirza, Additional Director

ORDER

This Order shall dispose of proceedings against HBL Asset Management Limited (“HBL-AMC”, the “Company”), which is a public limited company licensed to undertake the business of Asset Management and Investment Advisory Services, initiated through Show Cause Notice (the “SCN”) bearing No. SCD/AMCW/ADJ/35/2019/12 dated July 12, 2019 under Section 40A of the Securities and Exchange Commission of Pakistan Act, 1997 for violations of the Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 (“AML and CFT Regulations”).

2. A scope specific inspection of HBL-AMC was ordered under powers conferred upon the Securities and Exchange Commission of Pakistan (SECP or the Commission) under Section 282I of the Companies Ordinance, 1984 vide inspection order bearing No.SCD/S&ED/HBL AMC/2019/38 dated April 15, 2019. The scope of the inspection extended to review and assess the level of compliance of the AMC with respect to the AML and CFT Regulations. However, during the course of inspection, various violations/non-compliances were observed. The inspection team highlighted several deficiencies in customers’ record/documentation (selected on sample basis) which were in violation of several provisions of AML and CFT Regulations.

3. The Company was called upon to show cause in writing as to why penal action should not be taken against the Company, under Section 40A of the Securities and Exchange Commission of Pakistan Act, 1997 for violations of Regulation 7(1)(b), Regulation 11(2), Regulation 6(5)(a) of the AML and CFT Regulations.

4. A written reply was received vide letter dated July 17, 2019 from the Company, wherein the contentions made in the SCN were categorically addressed. The following arguments were provided in the reply.

(i) HBL Asset Management asserted that it has been making strenuous efforts to fully comply with AML and CFT Regulations and has taken several steps in the past one year to this effect. After going through a merger with PICIC Asset management and inheriting many legacy issues, the management and the Board of the company has been working diligently to execute an effective AML and CFT framework. HBL-AMC further highlighted that:

- A new AML and CFT Policy was approved by the Board in its 71st Meeting dated February 08, 2019 to implement SECP's AML and CFT Guidelines in letter and spirit.
- A Board directed scrutiny of all high value accounts was completed in March 2018 and was periodically reviewed by the Board Audit Committee.
- A comprehensive review has been initiated of all remaining 20,000 plus accounts to fill all documentation gaps. More than 5,000 discrepant accounts have been closed or rectified and the exercise is likely to be completed by December 2019.

(ii) With respect to deficiencies highlighted by the inspection team, HBL-AMC responded as follows:

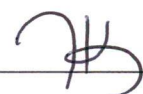
- a) With regards to point 3(i), SCN which related to identification of beneficial owners, HBL-AMC stated that just after the letter of findings dated May 13, 2019 was received from the inspection team, it had started screening the beneficial owners of corporate clients, besides directors and authorized signatories, from the screening system i.e. World-Check. HBL-AMC further highlighted that it had misunderstood that screening of only directors and authorized signatories was mandatory in case of corporate clients. HBL-AMC reiterated that due to the apparent gap in their understanding, screening of beneficial owners has not been conducted. Only Directors and authorized signatories were screened. HBL-AMC further stated that the process of compiling details of all the beneficial owners of the existing corporate clients



had been initiated and once the data is compiled, screening on regular basis will be done.

- b) Regarding paragraph 3(ii) of the SCN, with respect to system limitation to capture details of directors/beneficial owners and screening of any change in directors/beneficial owners [Regulation 6(5)(a) read with point 17(vii) of AML and CFT Guidelines], HBL-AMC stated that this observation is linked to observation raised in point 3(i). As already mentioned, since there was a gap in the AMC's understanding for screening of beneficial owners, the system did not have the provision for such actions. Now that this deficiency has been highlighted, HBL-AMC is working towards removing it and the requirement has been discussed with the system vendor, i.e. Sidat Hyder Morshed Associates (Pvt.) Ltd., to provide the patch on an urgent basis that would capture the details of corporate clients' directors /beneficial owners. Once the patch is delivered, the relevant details of corporate clients' directors / beneficial owners shall be inserted in the system and periodic screening via World Check screening system shall begin. HBL-AMC was hopeful that this project would be completed by the end of December 2019.
- c) In context of Para 3(iii) regarding justification for decision to rate a customer as low risk, HBL-AMC stated that after the receipt of letter of findings from the inspection team, the justification for the decision to rate every new customer as low risk has been started. This matter was also discussed in various sessions held by SECP at their Karachi Office on AML and CFT Regulations. HBL-AMC however understood that the marking of "Low Risk" check box on the account opening form or on the NBFC's system would suffice for the requirement of AML Regulation 11(2), and was therefore of the opinion that it was compliant with the requirements of Regulation 11(2). HBL-AMC stated that when it realized the gap in understanding, immediate action was taken to address this matter and now all decisions regarding risk rating of customers are being recorded.

5. The hearing in the matter took place on September 3, 2019 wherein Mr. Mubeen Ashraf Bhimani, Head of Compliance and Mr. Noman Qurban, CFO appeared on behalf of the Company. They reiterated the facts stated in the written reply. The Respondents further submitted that HBL-AMC do not disagree with the allegations made in the show cause notice. However, the Company fully realized that it was not completely compliant with the AML and CFT Regulations and was making its best possible effort to expedite remedial/rectification work in that direction. The CEO, however, asserted that due to large customer base and legacy issues it is expected to be fully compliant with the subject regulations by December 2019.



6. I have examined the facts of the case, considered the written responses along with documentary evidence placed on record and the arguments put forth by the Respondent Company. I am of the considered view that the arguments submitted by HBL-AMC are not tenable. The AML and CFT Regulations were effective immediately after their issuance and warranted that HBL-AMC initiate the process at its earliest. Had the company done so, all discrepancies/deficiencies of the legacy accounts would have been removed by the time the inspection took place. A ten-month delay indicates weakness in responsiveness of the management. In my view, given HBL AMC's size and very professional management, it is obligated to ensure that it is implementing the AML and CFT Regulations in letter and spirit.

7. HBL-AMC's argument relating to screening of signatories/directors/trustees of the client against the proscribed / sanctions list is not tenable. The AMC should have referred back to or consulted with SECP in case of any confusion or misunderstanding with regards to the implementation of AML/CFT Regulations. The AMC needs to realize that in the absence of requisite documents/information, the screening of unitholder database is rendered ineffective and does not serve the purpose/objective of screening of unitholders/beneficial owners completely. The absence of such critical information is likely to expose the Company to inefficient screening of its customers with SROs/notifications issued by NACTA/provincial governments/ Ministry of Foreign Affairs, etc.

8. Regulation 11(2) of AML and CFT Regulations clearly stipulates that the decision to rate a customer as low risk shall be justified in writing by the regulated person. It is my considered understanding that there is absolutely no vagueness in the understanding of the regulation, therefore the argument of HBL-AMC that marking of "Low Risk" check box on the account opening form or on the NBFC's system would suffice for the requirement of AML Regulation 11(2), is not acceptable.

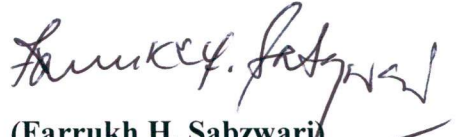
9. It is hence concluded, that the AMC needs to take cognizance of existing procedures and systems and take steps to expedite compliance with the AML and CFT regulatory framework. Given the very basic gaps in understanding on some very pertinent AML and CFT Regulations, I would reiterate the "open-door" policy at the SECP. We encourage regulatees to interact with the Commission on issues which need clarity. HBL-AMC is hereby directed to provide a time bound plan by September 30, 2019, whereby it should provide a roadmap for ensuring complete compliance with the AML and CFT regulatory framework.



10. Based on my observation at para 7 to 9 above, I am of the considered view that leniency on non-compliance towards requirement of Regulation 6(5)(a), Regulation 7(1)(b) and Regulation 11(2) of AML and CFT Regulations, is not possible since the SECP is responsible for ensuring implementation and enforcement of the applicable regulatory framework by the entities that fall under its regulatory ambit. Therefore, I hereby conclude the proceedings initiated under Section 40A of the SECP Act, 1997 by imposing an aggregate fine of Rs.200,000 (Rupees two hundred thousand only) on the Respondent.

11. The aforesaid fine must be deposited in the designated bank account maintained with MCB Bank Limited in the name of SECP within seven days from the receipt of the order. The receipt or bank challan is to be furnished to SECP. In case of non-deposit of penalty within the given time, a penalty of Rs.20,000 per day during which default continues shall be charged, after which proceedings for recovery of the fine as arrears will be initiated.

12. This order is being issued without prejudice to any other action that the Commission may initiate against the Company in accordance with the law on matter subsequently investigated or otherwise brought to the knowledge of the Commission.


(Farrukh H. Sabzwari)
Commissioner (SCD)

Announced on:
September 17, 2019 at Islamabad.