



Corporate Supervision Department  
Company Law Division

Before Abid Hussain – Executive Director

*In the matter of*

**Mr. Irfan Ilyas- Partner Ilyas Saeed & Co. Chartered Accountants  
Auditor of Bin Qutub Foundation**

Number and date of notice: CSD/ARN/168/2015-2280 dated January 8, 2016  
Date of hearings: February 11, 2016  
Present: Mr. Irfan Ilyas -Partner Ilyas Saeed & Co. Chartered Accountants

**ORDER**

**UNDER SECTION 260 READ WITH SECTION 255 & 476 OF THE COMPANIES  
ORDINANCE, 1984**

This order shall dispose of the proceeding initiated against Mr. Irfan Ilyas -Partner Ilyas Saeed & Co. Chartered Accountants ("respondent") through show cause notice (the "SCN") dated January 8, 2016 under the provisions of Section 260 read with Section 255 and 476 of the Companies Ordinance 1984 (the "Ordinance").

The facts leading to this case, briefly stated, are that, examination of annual audited accounts for the year ended June 30, 2014 (the "Accounts") of Bin Qutub Foundation (the "Company") revealed that, respondent being the auditor of the Company prima facie, failed to make their audit report (the "Report") to the members of the Company in conformity with the Form 35 A as prescribed under Rule 17A of the Companies (General Provisions & Forms) Rules, 1985 ("Rules").

Furthermore, the Accounts were prepared in accordance with the Accounting and Financial Reporting Standard ("AFRS") for Small Sized Entities ("SSE"). In terms of para 3 of the Commission's notification number 23(1)/2012 dated January 16, 2012 ("SRO"), as applicable at the relevant time, the company neither being a small company nor being a medium sized company, was required to follow International Financial Reporting Standards ("IFRS") in preparation of its Accounts.

The respondent while making out their report to the members for the year ended June 30, 2014, has failed to modify his opinion on the financial statements of the Company, regarding Company's failure to follow IFRS in preparation of financial statements. The Report on the Accounts was prima facie, not in accordance with the requirements of Section 255 of the Ordinance and failed to bring out material facts about the affairs of the Company. Therefore, SCN was issued to the respondent for prima facie, contravention of Section 255 of the Ordinance.



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In reply to the SCN dated January 19, 2016 the respondent made the following submissions:

- In the opening paragraph of SRO we understand that Commission directed the non-listed companies to follow AFRS for Medium Sized Entities ("MSEs") and SSEs as approved by the Council of the Institute of Chartered Accountants of Pakistan ("ICAP"). The Company in the instant case is a non-listed Company and as per direction of the Commission is required to prepare its Accounts in accordance with the AFRS.
- The above view point is further strengthened by the fact that the said SRO at para 3 explains that those entities which are not non-listed MSEs and are not non-listed SSEs shall follow the IFRS notified by the Commission. We understand that when you exclude MSEs and SSEs from preview, the only non-listed entities that remain covered under this para 3 are Economic Significant Entities.
- There is no distinction of companies limited by shares or limited by guarantee and companies having share capital or not having share capital in the said SRO. Thus in the absence of clear instructions, the intention of law maker was clear to distinguish the companies on the basis of their size only and not on the basis of their form. Keeping in mind the size of the Company it is a small company and the Accounts are required to be prepared in accordance with AFRS and not IFRS.
- The Company is a not for profit guarantee limited, being the NGO, the audit report has been prepared in the form and shape prescribed by the ICAP for the NGO audit as per ICAP ATR 17(2012).

In order to provide opportunity of personal hearing; the case was fixed before the undersigned on February 11, 2016. In the hearing the respondent reiterated the earlier stance taken in the written reply. Based on the submission requested a lenient view in the matter.

Before proceeding with the order, it is appropriate to quote the provisions of Section 35(3) of the Ordinance stipulating duties of auditors. It requires that the auditor shall make a report to the members of the company on the accounts and books of account of the company and on every balance sheet and profit and loss account and on every other document forming part of the balance sheet and profit and loss account, including notes, statements or schedules appended hereto, which are laid before the Company in general meeting during their tenure of office, and the report shall state:





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(d) whether or not in their opinion and to the best of their information and according to the explanations given to them, the said accounts give the information required by this Ordinance in the manner so required and give a true and fair view in the case of the balance-sheet, of the state of the company's affairs as at the end of its financial year; in the case of the profit and loss account or the income and expenditure account, of the profit or loss or surplus or deficit, as the case may be, for its financial year; and in the case of the statement of changes in financial position or sources and application of funds of a listed company, of the changes in the financial position or the sources and application of funds for its financial year;

8. Furthermore, the provisions of Section 255(4) of the Ordinance requires that where any of the aforesaid matters is answered in the negative or with a qualification, the report shall state the reason for such answer along with the factual position to the best of the auditors' information.

9. Para A1 and A12 of the International Standard on Auditing ("ISA") 200 "Overall Objectives of the Independent Auditor and the Conduct of an Audit in accordance with ISA" state as under:

**A1.** The auditor's opinion on the financial statements deals with whether the financial statements are prepared, in all material respects, in accordance with the applicable financial reporting framework. Such an opinion is common to all audits of financial statements. The auditor's opinion therefore does not assure, for example, the future viability of the entity nor the efficiency or effectiveness with which management has conducted the affairs of the entity. In some jurisdictions, however, applicable law or regulation may require auditors to provide opinions on other specific matters, such as the effectiveness of internal control, or the consistency of a separate management report with the financial statements. While the ISAs include requirements and guidance in relation to such matters to the extent that they are relevant to forming an opinion on the financial statements, the auditor would be required to undertake further work if the auditor had additional responsibilities to provide such opinions.

**A12.** The opinion expressed by the auditor is on whether the financial statements are prepared, in all material respects, in accordance with the applicable financial reporting framework. The form of the auditor's opinion, however, will depend upon the applicable financial reporting framework and any applicable law or regulation. Most financial reporting frameworks include requirements relating to the presentation of the financial statements; for such frameworks, preparation of the financial statements in accordance with the applicable financial reporting framework includes presentation.



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0. *ISA 705- Modifications to the opinion in the independent auditor's report states as under:*
- A4.** *In relation to the appropriateness of the accounting policies management has selected, material misstatements of the financial statements may arise when:*
- (a) *The selected accounting policies are not consistent with the applicable financial reporting framework; or*
- (b) *The financial statements, including the related notes, do not represent the underlying transactions and events in a manner that achieves fair presentation*
6. *The auditor shall modify the opinion in the auditor's report when:*
- (a) *The auditor concludes that, based on the audit evidence obtained, the financial statements as a whole are not free from material misstatement; or (Ref: Para. A2-A7)*
- (b) *The auditor is unable to obtain sufficient appropriate audit evidence to conclude that the financial statements as a whole are free from material misstatement. (Ref: Para. A8-A12)*
11. In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under section 260 of the Ordinance have been delegated to Executive Director (Corporate Supervision Department).
12. I have analyzed the facts of the case, relevant provisions of the Ordinance, ISA and arguments put forth by the respondent and observed the following;
- As per para 1A of part I of the Fifth Schedule, non-listed companies that are not medium sized companies or small sized companies shall follow the IFRS notified by the Commission for the listed companies under subsection 3 of section 234 of the Ordinance. Section 42 companies, by virtue of their structure and objectives, usually do not have share capital and as such cannot meet the qualifying criteria laid down for medium sized companies or small sized companies. Addressing this difficulty, the Commission vide SRO 23(I)/2002 dated January 16, 2012 stipulated that non listed companies which are neither medium sized companies or small sized companies shall follow the IFRS. However the financial statements of the Company have not been prepared in compliance with IFRS and the respondent did not identify this noncompliance in its report. It is however acknowledged that keeping in view the size of the Company and limited number of transactions disclosure in accordance with IFRS would not have materially added/changed the information already disclosed in the Accounts. Furthermore,



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subsequent to the signing of the audit report, the Commission vide S.R.O. 929(I)/2015 dated September 10, 2015 required from small and medium sized companies licensed/formed under Section 42 and 43 of the Ordinance which has annual gross revenue including other income of less than Rs. 200 million, to follow IFRS for SMEs issued by International Accounting Standards Board as adopted in Pakistan by council of ICAP.

- ATR 17 issued by ICAP begins with a recommendation of the Technical Advisory Committee which states:

*"As there is no standard format of auditors' report and also there is no provision for maintenance of accounts and audit of these societies either in the Trust Act, 1882 or Societies Registration Act, 1860 the Council has approved the enclosed format of auditors' report.*

*Members are advised to follow the following formats whichever is applicable while reporting on the financial"*

The aforesaid recommendation clearly states the reasons for issuance of ATR. The above statement leaves no ambiguity that audit of such entities would require reporting on the format prescribed in ATR 17. The entity in question is a company registered under the Ordinance and the audit report on its financials is to be made out on the format prescribed through Form 35 prescribed under Rule 17-A of the Rules.

3. For the foregoing reasons, I am of the firm opinion that the respondent failed to bring out material facts about the affairs of the Company and accordingly auditor's report has not been made in conformity with Section 255 and 260 of the Ordinance. However, keeping in view submissions made by the respondent and assurance of due care in future instead of imposing fine, hereby, conclude the proceedings with a stern warning to the respondent to be careful and ensure compliance with mandatory provisions of the Ordinance and ISA, in true letter and spirit; in future.

**Abid Hussain**  
Executive Director

**Announced:**  
February 18, 2016  
Islamabad