



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN
(Securities Market Division)
Adjudication Department

Through Courier

File No. 1(62) SMD/ADJ/LHR/2018

October 29, 2018

New Peak Securities (Private) Limited,
Through its Chief Executive officer,
Suite # 521, 5th Floor,
Siddique Trade Centre,
Lahore.

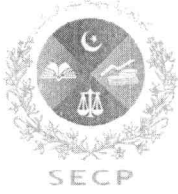
Subject: ORDER IN RESPECT OF SHOW CAUSE NOTICE DATED SEPTEMBER 3, 2018, BEARING NO. 1(62) SMD/ADJ/LHR/2018

Dear Sir,

Please find enclosed herewith a copy of order in the title matter for your record and necessary action.

Yours truly,


Kamal Ali
Additional Director



Securities and Exchange Commission of Pakistan
Securities Market Division

Before the Commissioner (SMD)

In the matter of Show Cause Notice Issued to
New Peak Securities (Private) Limited

<i>Date of Hearing</i>	<i>September 19, 2018</i>
<i>Present at the Hearing</i>	<i>Abdul Basit, Director</i>
<i>Place of Hearing</i>	<i>Through Video Conference from Regional Office, Lahore</i>

ORDER

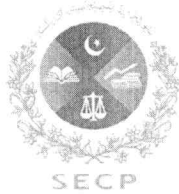
This Order shall dispose of the proceedings initiated through Show Cause Notice (SCN) bearing No. 1(62) SMD/ADJ/LHR/2018 dated September 03, 2018. The SCN was served on New Peak Securities (Private) Limited (“**Respondent**”) by the Securities and Exchange Commission of Pakistan (“**Commission**”) under section 150 of the Securities Act, 2015 (“**Securities Act**”). The Respondent is a Trading Rights Entitlement Certificate holder of the Pakistan Stock Exchange Limited (“**PSX**”) and licensed as a securities broker with the Commission under the Securities Act and the Securities Brokers (Licensing and Operations) Regulations, 2016 (“**Brokers Regulations**”).

2. Brief facts of the case leading to issuance of SCN are that the Commission vide order dated September 08, 2017, in exercise of the powers conferred under section 138 of the Securities Act, conducted inspection wherein a thematic review of compliance status of regulatory requirements relating to Anti Money Laundering (“**AML**”), Know Your Customer (“**KYC**”) and Customer Due Diligence (“**CDD**”) was carried out of the Respondent. The inspection report dated May 31, 2018 (“**Report**”) *inter alia* revealed the following:

- (i) The Respondent failed to furnish any evidence of dissemination of its KYC/CDD policy to its employees from which it appeared that the KYC and CDD policy of the Respondent had not been effectively disseminated to and understood by the relevant personnel as required under regulation 4.17 of the PSX Regulations.
- (ii) It was observed that investment profiling of customers had not been documented by the Respondent as required under the KYC/CDD Guidelines of PSX based on customer’s identity, nature of income, source of funding, location/domicile of customer, etc. Certain instances are as follows:
 - a. Aruna Farrukh (client code 196) – Mentioned as housewife and source of income is not identified.
 - b. Waris Bin Zahid (client code 74) – Mentioned as student and his source of income is not identified.
 - c. Sarwat Ejaz (client code 243) – Mentioned as housewife and source of income is not identified.

The Respondent in response to the above observations submitted client relationship forms wherein it was revealed that information in column related to gross annual income and source of income was still missing in the case of Sarwat Ejaz and Waris Bin Zahid.





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- (iii) As per the Respondent's KYC/CDD/AML policy, the Respondent shall collect and use information on the account holders' wealth and sources of income. However, as per details furnished by the Respondent, information was missing for the following customers:

Client	Account No.	Issue
Syed Riaz Hussain	76	- Address of Employer/Business not given. - Salary not mentioned.
M. Ayub Qureshi	104	- Address of Employer not given. - Salary not mentioned.
Rahim Azeem Mirza	107	- Source of income not provided.
Faisal Waseem Tabassum	273	- Source of income not provided.
Nida Sohail Chaudhary	331	- Source of income not provided.

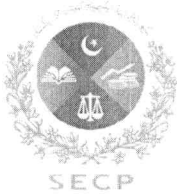
Moreover, details about customers' nature of investment as required under the KYC/CDD Guidelines of PSX had not been mentioned.

- (iv) Following instances were observed demonstrating that client risk categorization as provided by the Respondent was not as per the KYC/CDD Guidelines of PSX:

S. #	CODE	CLIENT NAME	Type	Risk Categorization as per Respondent	Risk Categorization as per PSX Guidelines	Other relevant details
1.	205	Muham mad Tahir Ishaq	As per UIN Report he is a foreigner	Low	High	As per details provided by the Respondent he is a trader in fruit mandi and as on 04-07-2017 an amount of Rs.847,500 received from him as cash on line as per his ledger.
2.	382	Akhtar Hussain	As per UIN Report he is a foreigner	Low	High	As per details provided by the Respondent, he is a businessman in Saudi Arabia.
3.	196	Aruna Farrukh	Resident	Low	High	As per details provided by the Respondent including SAOF, it was observed that the client has relations with a political party and thus she is a Politically Exposed Person (PEP)

- (v) The Respondent had not applied Enhanced Due Diligence (EDD) when dealing with high-risk customers as required under the KYC/CDD Guidelines of PSX. One such instance was noted in the case of a customer named Aruna Farrukh (Code: 196). The customer falls under the category of Politically Exposed Person (PEP), however, it appeared that the Respondent had not taken reasonable measures to establish the source of wealth and source of funds as the profession of the customer was mentioned as 'Housewife'.
- (vi) While examining the Standardized Account Opening Form (SAOF) of Aruna Farrukh (Code: 196), no evidence was observed with regard to person operating and managing the trading account of the customer, although occupation of the client was mentioned as 'Housewife'.





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- (vii) It was observed that the profile of the following customer did not match with her high trading volume during the month of August 2017:

Client Code	Client Name	Occupation	Risk Rating by the Respondent	Source of Fund as per the Respondent
196	Aruna Farrukh	House Wife	Low	Not provided

Further, review of client ledger of the aforementioned customer for the period from July 1, 2017 to August 31, 2017 revealed that the customer had traded in the month of July-17 and Aug-17 above the defined threshold prescribed in Circular 10 of 2017 issued by the Commission.

- (viii) As per details provided by the Respondent its Chief Executive Officer, Mr. Ghulam Mujtaba Butt and Mr. Abdullah Naveed were working in its compliance function. However, as required under the KYC/CDD Guidelines of PSX the compliance officer is required to report to the Board of Director. Thus, it appeared that the compliance officer was not performing his functions independently.
- (ix) As per Circular 10 of 2017 issued by the Commission, brokers are required to maintain record of customers having trading above the prescribed threshold. While reviewing the trading data provided by NCCPL for the month of July and August 2017, it was noted that certain customers of the Respondent crossed the minimum threshold as defined under the said Circular. It was observed that such customers were initially marked as 'Low Risk' based on aforesaid threshold and:
- risk Category was not re-considered;
 - Enhanced due diligence was not performed; and
 - No other action was initiated.

The following customers crossed the minimum threshold:

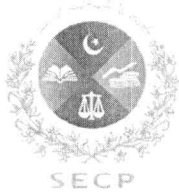
Name	Client Code	Month
Aruna Farrukh	196	July 2017
M. Kaleem Akhtar	001	August 2017

- (x) In view of absence of customer identification, improper risk assessment and categorization of clients, absence of enhanced due diligence, absence of ongoing due diligence and lack of proper human resource in compliance function, it appeared that the Respondent did not have adequate checks and controls to monitor and remain alert regarding suspicious transactions.

3. It appeared from the foregoing that the Respondent *prima facie* was in violation of regulations 16(1)(k), 16(1)(o) and 16(8) of the Brokers Regulations, Circular No. 10 of 2017 dated April 21, 2017 issued by the Commission, regulation 4.17 of the PSX Regulations and the Know Your Customer & Customer Due Diligence Guidelines issued by PSX on March 16, 2012.

4. The Commission took cognizance of the aforementioned alleged violations and served the SCN dated September 03, 2018 under section 150 of the Securities Act to the Respondent. The Respondent was called upon to Show Cause in writing within seven days from the date of receipt of the SCN and the case was scheduled for hearing before the undersigned on September 18, 2018. The Respondent filed written reply to the SCN vide letter of September 10, 2018. Hearing in the matter was adjourned and held on September 19, 2018.





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5. The submissions made by the Respondent in response of the SCN and verbally during the course of hearing are summarized as under:

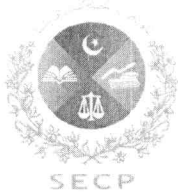
- (i) *We have no branch offices and total strength of our office staff is 10 in numbers out of which 04 staff are relates to support staff as rider and office boy. Further we have issued inter office memo in the month of November 2017 and informed all related staff about the compliance and copy of KYC CDD Policy has also being marked to Compliance officer with Board Resolution.*
- (ii) *Waris bin Zahid has been supported by his parents and we have only received one payment from him in the form of cross banking instruments from his own bank account during last year and Mrs. Srwat Ijaz has also been supported by her husband. Copy of Client Relationship Form "CRF" of both clients has been attached along with reply.*
- (iii) *Reply is below:*

Client	Account No.	Issue	Response
Syed Riaz Hussain	76	- Address of Employer/Business not given. - Salary not mentioned.	- Already mentioned on CRF - Annual salary is mentioned on CRF
M. Ayub Qureshi	104	- Address of Employer not given. - Salary not mentioned.	- Already mentioned on CRF - Annual salary is mentioned on CRF
Rahim Azeem Mirza	107	- Source of income not provided.	- Marked as Services. Further please note that we are in process to close this account as client has never made single entry in the account since date of opening and not deposited any payment
Faisal Waseem Tabassum	273	- Source of income not provided.	- Already mentioned on CRF that he is Retired Col from Pak Army
Nida Sohail Chaudhary	331	- Source of income not provided.	- Mentioned as housewife and she also have no trading activity since the date of opening and we are in process to close this account

(iv) *Reply is below:*

S. #	CODE	CLIENT NAME	Type	Risk Categorization as per Respondent	Risk Categorization as per PSX Guidelines	Response
1.	205	Muhammad Tahir Ishaq	As per UIN Report he is a foreigner	Low	High	As replied earlier in CDS we have marked as "Resident Pakistani" on the basis of Valid copy of CNIC and he is not a foreigner. Further please note that as per NCCPL regulation 3.7.2 we have to create the UIN on the basis of CDS data so according to these understanding we have developed our KYC database on the basis of CDS Report not as per UIN report.
2.	382	Akhtar Hussain	As per UIN Report he is a foreigner	Low	High	Updated copy of KYC checklist has been attached here. Further he is doing a job in Saudia Arabia not business and same has been mentioned on CRF.





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3.	196	Aruna Farrukh	Resident	Low	High	Updated copy of KYC checklist has been attached along with reply after changing the status of client from Low Risk to High Risk after circular 10 from SEC.
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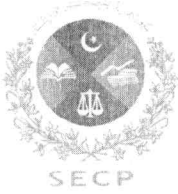
- (v) We have assigned Low risk to Mrs. Aruna Faruukh at the time of account opening and after implementing of Circular 10 and same has been highlighting by you we have changed the status of the client from Low Risk to High Risk. Further Client has paid or received payment from brokerage house in the form of cross banking instrument and same has been submitted to you with the reply earlier dated November 16, 2017. Further trades of said client have been monitored on regularly basis and never noted any suspicious transaction.
- (vi) Mrs Aruna Farrukh has not authorized any person to operate her account as he has more than 10 years of experience in the capital market.
- (vii) As mentioned above we have changed their risk category and copy of revised check list is furnished.
- (viii) At the start Compliance officer has addressed their report to the both CEO / Board of Directors after highlighting the same from your side same has been updated and from the month of November 2017 he has submitted all the reports to Board of Directors only.
- (ix) We have maintained the register under Circular 10 and updated the same on timely basis. Further, we have already submitted the revised checklist of both clients and monitor their trades very closely and noted no noncompliance of KYC and CDD guidelines.
- (x) We have passed the updated highlighted in the report to compliance officer and due care should be noted while evaluating the risk assessment.

6. I have heard the arguments presented by Representative of the Respondent during the hearing. Additionally, I have perused the available record, existing regulatory framework and written response filed by the Respondent. The primary allegation against the Respondent is that it was in non-compliance with provisions of the relevant laws mentioned in para 3 above.

7. In order to arrive at a decision, it is essential to consider that:

- (i) although the Respondent has stated that it has disseminated its KYC/CDD policy to its staff, however no evidence has been furnished for the same;
- (ii) Respondent has provided the source of funding for Waris Bin Zahid, i.e. his father, and Srwat Ijaz, i.e. her husband, however the same is not mentioned in the account opening form/KYC CDD checklist. Further, no information relating to source of income for Ms. Aruna Farrukh has been furnished;
- (iii) Source of income for customers namely Rahim Azeem Mirza, Faisal Waseem Tabassum and Nida Sohail Chaudhary have not been furnished by the Respondent. Only occupation has been mentioned as Services, Retired and Housewife which is not sufficient to establish source of income. Further, Respondent has not furnished any response regarding the nature of investment of the identified customers;
- (iv) in the case of customer namely Muhammad Tahir Ishaq, it is the Responsibility of the Respondent to perform on-going due diligence and ensure that risk categorization of customers is done accurately;





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- (v) While Respondent has revised the risk categorization of customer namely Aruna Farrukh, it has not furnished any evidence of Enhanced Due Diligence and source of wealth and funds of the said customer;
- (vi) due to the above and certain non-compliances that were accepted and later on rectified by the Respondent, it could not have been possible for it to have adequate checks and controls to monitor and remain alert regarding suspicious transactions.

8. Before arriving at a decision, it is pertinent to mention that regulatory requirements relating to KYC/CDD and AML have been implemented since the year 2012 considering the public interest, integrity of the Pakistani capital market and the country's international commitments. Hence, all licensed persons are expected to ensure strict compliance with this regime by remaining vigilant and putting in place requisite policies and procedures to curtail activities relating to money laundering and financing of terrorism. The Commission has adopted a zero tolerance policy towards any gaps in this area and will not show any leniency for non-compliances in future.

9. Based on the above and the fact that the Respondent has accepted most of the non-compliances in its response and during the course of the hearing, most of which have been rectified, I have reasons to conclude that it is established that the Respondent was guilty of misconduct in terms of section 150(5) of the Securities Act, as the Respondent is non-compliant with provisions of relevant laws mentioned in para 3 above.

10. In view of the foregoing, violations of the regulatory framework committed by the Respondent are established. However, it was observed based on the response and during the course of the hearing that the Respondent did not have complete understanding of the regulatory framework. While ignorance of law is not an excuse as the regulatory framework has been in effect since the year 2012, since the thematic review of the Respondent for AML, KYC and CDD has been carried out for the first time, I have decided to take a lenient view. Considering the same, no monetary penalty is being imposed, however, the Respondent is strictly warned to ensure compliance with the relevant legal framework.

11. Furthermore, the Commission will carry out a follow-up review within due course of time to assess whether the aforementioned violations have been rectified by the Respondent and in case of continued non-compliance, the Commission shall adopt a stringent course of action.

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


(Shaukat Hussain)
Commissioner



Announced on October 29, 2018
Islamabad.