



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
SECURITIES MARKET DIVISION

Before the Executive Director (Securities Market Division)

In the matter of Show Cause Notice issued to

Oriental Securities (Private) Limited

Under Rule 8 read with Rule 12 of the Brokers and Agents Registration Rules, 2001 ("the Brokers Rules")

Number and date of Notices	SMD-SOUTH/SCN/109/07 dated August 03, 2007
Date of hearing	August 16, 2007
Present	Mr. Baharutullah Khan-M.D and Mr. Asadullah Khan-Director
Date of Order	October 29, 2007

ORDER

1. This order shall dispose of the proceedings initiated through Show Cause Notice SMD-SOUTH/SCN/109/07 dated August 03, 2007 issued to Oriental Securities (Private) Limited (the "**Respondent**") by the Securities and Exchange Commission of Pakistan (the "**Commission**") under Rule 8 of the Brokers Rules for violation of Rule 12 of the Brokers Rules and Clause A5 of the code of conduct contained in the Third Schedule to the Brokers Rules.
2. Brief facts of the case are that the Respondent is a member of the Exchange and is registered with the Commission under the Brokers and Agents Registration Rules, 2001 (the "**Brokers Rules**"). An enquiry was initiated by the Commission in exercise of its powers under Section 21 of the Securities and Exchange Ordinance, 1969 ("**1969 Ordinance**") and Ford Rhodes Sidat Hyder & Co. ("**the Enquiry Officer**") was appointed as the Enquiry Officer under the above mentioned section inter alia:
 - a) to enquire into the dealings, business or any transaction by the Broker during the period from April 1, 2006 to June 15, 2006 ("**the Review Period**").
 - b) to identify any and all the acts or omissions constituting the violation of the 1969 Ordinance and the Rules made thereunder.
 - c) to identify violations of any other applicable laws, including but not limited to the Brokers Rules and Regulations for Short Selling under Ready Market, 2002 ("**2002 Regulations**").

3. The findings of the Enquiry Officer revealed several instances of potential non compliances with applicable laws and regulations. A copy of the Enquiry Officer's report was sent to the Respondent under cover of a letter dated May 07, 2007 which required the Respondent to provide explanations on the observations of the Enquiry Officer together with supporting documents.
4. After perusal of the Respondent's replies to the above mentioned letter, which did not adequately explain the position, a Show Cause Notice was issued to the Respondent under Rule 8 of the Brokers Rules stating that the Respondent has prima facie contravened Rule 12 of the Brokers Rules read with Clause A5 of the code of conduct contained in the Third Schedule to the Brokers Rules which are reproduced as under:

Rule 12- " A broker holding a certificate of registration under this rules shall abide by the code of conduct specified in the Third Schedule"

Clause A5 of the code of conduct-"A broker shall abide by all the provisions of the Act and the rules, regulations issued by the Commission and the stock exchange from time to time as may be applicable to them".

5. The Respondent was called upon to show cause in writing within seven days and appear before the Executive Director (SMD-South) on August 16, 2007 for a hearing, to be attended either in person and/or through an authorized representative.
6. The hearing was held on August 16, 2007 which was attended by Mr. Baharutullah Khan-M.D and Mr. Asadullah Khan-Director the Representatives of the Respondent, who submitted a written reply and argued the case.
7. A summary of the contentions that were raised by the Respondent in the written reply / during the hearing and findings and conclusions of the Commission on the same are as follows:

8. Blank Sales

- 8.1 In terms of Regulation 4 of the 2002 Regulations, blank sales are not permissible. The findings of the Enquiry Officer revealed 11 instances of blank sales during the Review Period.

- 8.2 The Respondent made the following submissions on this Issue ("**Issue No. 1**"):



- The Respondent admitted that 2 out of 11 instances were a result of error.
- In respect of the remaining 9 instances, the Respondent submitted evidence to demonstrate that the same were not blank sales and the clients had pre-existing interest at the time of sale.

8.3 Considering the above facts and the contentions of the Respondent, it is established that on 2 occasions blank sales have been made in violation of Regulation 4 of the 2002 Regulations. However, considering the low number and frequency of the blank sales facts I am inclined, on this occasion, to take a lenient view in the matter and will not take any punitive action under Rule 8 of the Brokers Rules. As such, I believe a 'caution' in this instance to the Respondent would suffice and I would further direct the Respondent to ensure that full compliance is made of all the laws and Regulations in future for avoiding any punitive action under the law.

9. Order Register

9.1 In terms of Rule 4(1) of the Securities and Exchange Rules 1971 ("**1971 Rules**"), it is provided that:

"All orders to buy or sell securities which a member may receive shall be entered, in the chronological order, in a register to be maintained by him in a form which shows the name and address of the person who placed the order, name and number of the securities to be bought or sold, the nature of transaction and the limitation, if any, as to the price of the securities or the period for which the order is to be valid."

9.2 Findings of the Enquiry Officer revealed that the register as mentioned above was not maintained by the Respondent during the Review Period.

9.3 The Respondent made the following submissions on this Issue ("**Issue No. 2**");

- The Respondent contended that the said 1971 Rules were framed in 1971 where an outcry system was in place and considering the introduction of computerized trading, significantly increased volume of trades and time constraints it is virtually impossible to maintain the Register as required under the 1971 Rules. The Respondent submitted that a Daily Activity Log is maintained in order to fulfill the requirements of the said 1971 Rules.
- The Respondent agreed to implement a phone recording system for all orders received through telephone.



- 9.4 I have considered the contentions of the Respondent and am of the view that the Daily Activity Log as mentioned by the Respondent is not a substitute for the Order Register as required under the Rule 4(1) of the 1971 Rules, since the Daily Activity Log only records those orders that are placed by the brokerage house into KATS and not the orders received from the clients.
- 9.5 The Commission is also cognizant of the practical difficulties associated with the maintenance of such an Order Register manually and in order to facilitate the brokerage houses in meeting the requirements of the said rule, the Exchange is developing a system which will be provided in due course. However, it is noted with disappointment that the brokerage houses and exchanges were not able to keep pace with evolution in technology and significant increase in trading activities whereby a system should have been developed to enable simultaneous recording of orders received from clients and their incorporation in a database to generate the order register as required under the requirements of the Rule 4(1) of the 1971 Rules.
- 9.6 Considering the above mentioned facts I am inclined, on this occasion, to take a lenient view in the matter and will not take any punitive action under Rule 8 of the Brokers Rules. As such, I believe a 'caution' in this instance to the Respondent would suffice and I would further direct the Respondent to ensure that full compliance is made of all the regulations in future for avoiding any punitive action under the law.

10. Order Confirmation

- 10.1 In terms of Rule 4 (4) of the 1971 Rules, it is provided that:

"A member executing an order of a customer shall, within twenty four hours of the execution of the order, transmit to the customer a confirmation which shall include the following information, namely:-

- i. date on which the order is executed
- ii. name and number of the securities;
- iii. nature of transaction (spot, ready or forward and also whether bought or sold);
- iv. price;
- v. commission, if the member is acting as a broker;



vi. whether the order is executed for the members own account or from the market."

10.2 Findings of the Enquiry Officer revealed that confirmations of orders executed were not provided to the clients on a regular basis despite the above legal requirement.

10.3 The Respondent made the following submission on this Issue ("**Issue No. 3**"):

- The Respondent contended that it has a practice of emailing the trade confirmations to its clients on a daily basis. Further, it has in place an online system which enables its clients to access and view their account balances and details of transactions executed. The Respondent also submitted that upon signing of Account Opening Forms, it is agreed with the client that the above mentioned online system will be considered a fulfillment of requirement of the above mentioned Rule 4 (4) of the 1971 Rules.

10.4 Considering the above mentioned facts, I am of the opinion that no punitive action is required under Rule 8 of the Brokers Rules.

11. In view of what has been discussed above, I am of the considered view that no punitive action is necessary in relation to Issues No. 1, 2 and 3 and a simple caution will suffice in relation to Issues No. 1 and 2.



Zafar Abdullah
Executive Director
Securities Market Division