

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

In the matter of Show Cause Notice issued to M/s. Pasha Securities (Pvt) Limited

Date of Hearing

December 20, 2019

Order-Redacted Version

Order dated January 01, 2020 was passed by Executive Director/Head of Department (Adjudication-I) in the matter of Pasha Securities (Pvt) Limited. Relevant details are given as hereunder:

Nature	Details
1. Date of Action	Show cause notice dated December 13, 2019
2. Name of Company	Pasha Securities (Pvt) Limited
3. Name of Individual*	Not relevant. The proceedings were initiated against the Company i.e. Pasha Securities (Pvt) Limited
4. Nature of Offence	Proceedings under Section 40A of SECP Act, 1997 for violations of inter-alia Regulation 4(a), 6(3), 6(3)(c), 6(4), 6(8), 13(1), 13(2), 13(7), 11(2) and 15(3) of AML and CFT Regulations, 2018
5. Action Taken	<p>Key findings of default of Regulations were reported in the following manner:</p> <p>I have examined the written as well as oral submissions of the Respondent and its Authorized Representatives. In this regard, I observe that:</p> <ol style="list-style-type: none">i. The Authorized Representatives could not exhibit the evidence that at the time of Inspection screening of account holders/nominees/authorized persons, were being conducted by the Respondent from the list of proscribed persons under Anti-Terrorism Act, 1997, and from list of person designated by United Nation Security Council Resolutions adopted by Government of Pakistan, at the time of establishment of relationship and continuing relationship with the customers. The Authorized Representatives also admitted that currently, there is no centralized database of joint accountholders/Board of Directors/Trustees with respect to their clients. Further, Respondent through its letter dated November 20, 2019 submitted that now we are maintaining this record in excel sheet. Moreover, during the hearing the Authorized Representative also informed that Respondent has requested its software vendor to develop the required database and functionality in its system. Hence, the Respondent is in violation of Regulations 4(a) and 13(7) of AML Regulations.



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	<p>ii. As required in Regulation 11(2), the Respondent has failed to furnish any evidence of recording justification for categorizing seventeen customers as low risk and also admitted the default during the hearing. Authorized Representatives submitted that subsequent to identification of default, Respondent has started recording justifications for categorizing customers as low risk.</p> <p>iii. In respect of alleged violation of Regulation 15(3), Authorized Representatives could not substantiate the claim of the Respondent that it was screening the customers manually on receipt of each SRO from SECP. Respondent could not produce documentary evidence in this regard which it was required to maintain under the Regulation. Authorized Representatives submitted that now Respondent is maintaining the requisite record in excel sheet.</p> <p>iv. The Respondent has failed to submit any evidence to confirm that the Respondent had validated the identity documents of its seventeen highlighted customers through NADRA Verysis required under Regulation 6(4) of AML Regulations. The contention of the Authorized Representatives submitted that Respondent opened accounts of customers after the approval from National Clearing Company of Pakistan Limited (NCCPL) is not relevant as any approval from NCCPL cannot substitute the statutory requirement of validation of identity documents of customers.</p> <p>v. The Respondent could not furnish any evidence in support of its stance that CDD of a highlighted instance was performed in accordance with the requirements of Regulation 6(3) of AML Regulations. During the hearing, the Authorized Representatives submitted that subsequent to the Inspection, Respondent has carried out CDD of the identified case.</p> <p>vi. The categorization of a customer as low risk by the Respondent despite of prevailing high-risk factors was contrary to the requirement of Regulation 6(8) which states that each customer shall be categorized as high or low, depending upon the outcome of the CDD process. In the identified instance, the Respondent had not designated the appropriate risk category for a customer in violation of Regulation 6(8). Authorized Representatives submitted that subsequent to the Inspection, Respondent has carried out CCD of the identified case.</p> <p>vii. The Authorized Representative admitted the default of Regulation 6(3)(c) in the two identified cases and submitted that subsequent to the inspection, Respondent has complied with the requirement of the Regulation by obtaining necessary documentation including copy of income tax return and bank statement of clients.</p>
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	<p>viii. Authorized Representatives informed that subsequent to the Inspection, Respondent has complied with the requirements of the Regulation 13(2) in respect of the highlighted instance. The post-inspection rectification of shortcomings does not undo the default of the Respondent.</p> <p>ix. The contention of the Authorized Representatives that subsequent to the identification of two instances of violation of the Regulation 13(1), Respondent has complied with the requirements of the Regulation 13(1), is not plausible as post-inspection remedial action does not absolve the liability of the Respondent.</p> <p>I have noted that Respondent has taken remedial measures on defaults identified during the Inspection. Moreover, Respondents did not engage themselves in undue contest of the SCN.</p> <p>In view of the foregoing and admission made by the Representatives, contraventions of the provisions of AML Regulations have been established. Therefore, in terms of powers conferred under section 40A of the Act, a penalty of Rs. 300,000/- (Rupees three hundred thousand) is hereby imposed on the Respondent, 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 January 01, 2020 was passed by Executive Director (Adjudication-I).</p>
6. Penalty Imposed	A penalty of Rs. 300,000/- (Rupees three hundred thousand) was imposed on the Company.
7. Current Status of Order	An appeal has been filed against this Order.

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