

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

In the matter of Show Cause Notice issued to Rural Community Development Programmes

Date of Hearing

June 16, 2020

Order-Redacted Version

Order dated July 13, 2020 was passed by Executive Director/Head of Department (Adjudication-I) in the matter of Rural Community Development Programmes (RCDP). Relevant details are given as hereunder:

Nature	Details
1. Date of Action	Show cause notice dated March 16, 2020
2. Name of Company	Rural Community Development Programmes
3. Name of Individual*	The proceedings were initiated against the Company i.e. Rural Community Development Programmes and its Board of Directors.
4. Nature of Offence	Proceedings under Section 40A of SECP Act, 1997 for violations of inter-alia Regulation 6(3), 6(5a) and 13(7) of AML and CFT Regulations, 2018 and Regulation 9(1) and 9(2)(d) of the NBFC and Notified Entities Regulation, 2008
5. Action Taken	<p>Key findings of default of Regulations were reported in the following manner:</p> <p>I have analyzed the facts of the case, considered the documentary evidence placed on record, along with the arguments put forth by the Respondent Company. I am of the view that the submissions by RCDP are not plausible due to the following:</p> <ul style="list-style-type: none">a) It is evident that the screening process of accounts carried out against the proscribed lists (issued by UNSC and NACTA) by RCDP was rendered ineffective and did not serve the purpose/objective of screening of unitholders/ beneficial owners completely.b) The aforementioned also implies that RCDP did not provide the factual position to the Commission, since the Company in response to the Commission's email dated November 19, 2019, informed that no match was found in the database. However, in view of afore-



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mentioned instances, the Company prima facie, failed to properly screen its customers/beneficial owners/nominee database and to report the match to the Commission. Hence, not providing the factual report to the regulator is considered as a serious oversight and tantamount to mis-reporting by RCDP.

- c) The argument furnished by RCDP in its reply to the show cause notice that RCDP was in the process of up-gradation of its MIS into SMART MIS version and the omission to report the spouses of its customers during reporting was inadvertent since the software system up-gradation was in the transition state, is not tenable. In my view, RCDP should have had alternative arrangements such as excel based sheets for manual screening of the database, until the conclusion of the upgradation of the MIS.
- d) The Company filed STR with FMU after the default committed by the Company was highlighted by the Commission. It is a matter of concern that since the company failed to screen its customer/ beneficial owner/ nominee database adequately and report matches, timely STRs could not be generated, whereby contravention of regulation 6(5a) of the AML Regulations has been established.
- e) During the course of hearing attention was drawn by the counsel towards a previous Order where SECP had taken a lenient view. Matter of fact is that a number of Orders have been passed with similar instances of violations of the AML Regulatory framework, with special reference to establishment of business relationship with proscribed persons. In all such cases not only penalty has been imposed but also the quantum of penalty is relatively higher due to the threat that it poses to the national economy/interest. This Order is consistent with the earlier Orders comprising similar AML/CFT violations.

It is pertinent to mention that the nature of the role of Board of Directors demands that the board be proactive and take a stronger interest in management activities to ensure impact on discharge of its fiduciary responsibilities. The Board needs to stay informed of how the organization is being managed to protect its legal responsibilities. However, the Respondents could not furnish any evidence regarding efforts to perform oversight of the policy implementation. I am of the considered view that the Respondents on their part had a fiduciary responsibility for oversight of RCDP, among other, to ensure compliance of the mandatory legal framework, but failed to ensure compliance of the same. The BOD has been unable to demonstrate that it has fully discharged its responsibilities with respect to oversight of



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	<p>implementation of its policy directive. In fact, the BOD has displayed negligence in this respect since they did not follow up on their directives with the management. This indicates laxity on part of the BOD towards its responsibilities. It is expected that the Respondent enhance their role to attain the expected level of vigilance for ensuring meticulous compliance of the aforesaid regulatory regime.</p> <p>Regulation 9(1) and 9(2)(d) of Non-Banking Finance Companies and Notified Entities Regulations, 2008 prescribe that NBFCs shall ensure prevention of money laundering and other illegal trades and abide by such laws, directives and circulars to safeguard the NBFC against involvement in money laundering activities and other illegal trades. Violation of the aforementioned Regulations attracts penal provision under section 282J (1) of the Companies Ordinance, 1984.</p> <p>In view of the foregoing, it is concluded that the lapse was demonstrated by both the Company and the BoD. The laxity shown by both has exposed it to breach of mandatory provision with respect to TF risk management and TF obligation. Based on my observation, I am of the considered view that leniency on non-compliance towards Regulation 6(5a), Regulation 6(3) and Regulation 13(7) of the AML & CFT Regulations and Regulation 9(1) and 9(2)(d) of the NBFC and Notified Entities Regulation, 2008 by RCDP, is not possible, since SECP is responsible for ensuring implementation and enforcement of the applicable regulatory framework by entities that fall under its regulatory ambit.</p> <p>Therefore, I, hereby conclude the proceedings initiated under section 40A of the Securities and Exchange Commission of Pakistan Act, 1997 and section 282J(1) of the Companies Ordinance, 1984 by imposing a penalty of Rs.1,000,000/- only/- (Rupees One Million Only) on the Company and a penalty of Rs.125,000/- only (Rupees One hundred and twenty five thousand) on each of eight directors, including the Chief Executive .The penalty (Rs. 2,000,000/- only in aggregate) has been imposed on the Respondents for failing to take due care to organize and control the affairs of the Company in such a manner that the implementation of AML/CFT framework to check money laundering and terror financing activities is effective and violation of the said framework is avoided.</p> <p>Penalty order dated July 13, 2020 was passed by Executive Director (Adjudication-I).</p>
6. Penalty Imposed	An aggregate of Rs. 2,000,000/-(Rupees two million only)was imposed on the Company.A penalty of Rs. 1,000,000/- (Rupees one million only) was imposed on the Company and a penalty of Rs.125,000/- only (Rupees One hundred and twenty five thousand) on each of eight directors, including the Chief Executive.



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7. Current Order	Status of	An appeal has been filed against the Order.
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Redacted version issued for placement on the website of the Commission.