



# SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

34

Say No to Corruption

*Before*

**Shahzad Afzal Khan, Director/ Head of Department**  
*In the matter of*

**PNO CAPITAL LIMITED**

Show Cause Notice No. & Date	SECP/SCD/Adj-I/PNO/144/2023/2776 Dated March 27, 2023
Date of Hearing:	June 01, 2023
Hearing Attended by:	i. Mr. Jawad Amjad, Chief Executive Officer ii. Mr. Muhammad Faizan Sarmad, Chief Finance Officer / Company Secretary

**ORDER**

**UNDER SECTION 282 J OF THE COMPANIES ORDINANCE, 1984, FOR CONTRAVENTION OF REGULATION 8(XX) OF THE PRIVATE FUNDS REGULATION, 2015**

This Order shall dispose of the proceedings initiated through the aforesaid Show Cause Notice dated March 27, 2023 (the SCN) by the Securities and Exchange Commission of Pakistan (the Commission) against PNO Capital Limited (the Respondent Company); Mr. Jawad Amjad, Chief Executive Officer; Mr. Faisal Bengali, Director; and Ms. Faiza Sughra Haider, Director; hereinafter collectively referred to as Respondents, for contravention of regulation 8(xx) of the Private Funds Regulations, 2015 (the Regulations) read with Section 282J of the Companies Ordinance, 1984 (the Ordinance).

2. The Company was incorporated on May 03, 2016, as a public unlisted company under the Ordinance and licensed by the Commission to undertake Private Equity and Venture Capital Fund Management Services under Non-Banking Finance Company (Establishment and Regulations) Rules, 2003 (the NBFC Rules) and the Regulations. The Company currently manages one Private Fund i.e. PNO Pakistan Fund – I (the Private Fund).

3. Regulation 8(xx) of the Regulations requires that a Private Fund Management Company within four (4) months of close of the financial year of the Private Fund, shall prepare and transmit to the unit holders and the Commission, with respect to the Private Fund

- I. The balance sheet stating the details of investments depicting cost and realizable value of such investments
- II. Profit and loss statement
- III. Cash flow statement
- IV. Statement of movement in NAV per unit of the PE Fund.

4. Pursuant to regulation 8(xxii) of the Regulations, the said financials were also required to be audited by an external auditor. However, it transpired from the records of the Commission that the Company has failed to submit the final audited account of the Private Fund for the financial year ended on June 30, 2022, to date. Moreover, upon further review of the record, it was observed that the Company has also failed to submit the annual audited accounts of the Private Fund for the year ended on June 30, 2021, up till now.



# SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I  
Adjudication Division

Continuation Sheet - I -

5. The Company vide letter dated November 3, 2022, approached the Commission for seeking one-month relaxation for the submission of financial statements of the Private Fund for the year ended on June 30, 2022, under the Regulations. The extension till November 30, 2022, was acceded to by the Commission vide letter dated November 17, 2022. Thereafter, the Company again approached the Commission vide letter dated November 29, 2022, for a further extension to prepare audited financials of the Private Fund. However, the Commission denied its request vide letter dated December 30, 2022 and advised the Company to prepare and file annual accounts of the Private Fund at the earliest. Moreover, no relaxation with regard to the submission of annual audited accounts of the Private Fund for the year ended on June 30, 2021, has been granted by the Commission.

6. The Commission vide email dated February 02, 2023, sought an explanation from the Company for non-filing of financial statements and annual audited accounts. The Company submitted its response as under:

*".. With regards to 2021 & 2022 we would like to explain that we are still in process of finalizing the same as, we have not yet received audited accounts of our portfolio companies which are required for independent valuations. We hope to receive this information soon enabling us to complete the valuation and finalize the accounts as soon as possible and going forward ensure timely compliance of the provisions of law in letter and spirit."*

7. The same violation was earlier highlighted to the Company for the Financial Year ended on June 30, 2020, vide letter dated April 23, 2021, wherein the Company was advised to furnish its explanation but the Company even failed to respond to the Commission's letter. However, as per the available record, the Company subsequently submitted the Private Fund's account for the year ended on June 30, 2020.

8. In view of the foregoing, the Company failed to finalize the accounts of the Private Fund for the year 2021-22 as well as for the year 2020-21. Thus, the Respondents, *prima facie*, failed to ensure compliance with the requirements of the regulations 8(xx) which attracts the applicability of Section 282J of the Ordinance. The said requirements of law are reproduced as under:

**Regulation 8(xx) of the Regulations:**

*"The Private Fund Management Company shall: -*

*within four (4) months of close of the financial year of the Private Fund, prepare as per the approved applicable International Accounting Standards and International Financial Reporting Standards, and transmit to the unit holders and the Commission, with respect to the Private Fund:*

- a) the balance sheet stating details of investments depicting cost and realizable value of such investments;*
- b) profit and loss statement;*
- c) cash flow statement; and*
- d) statement of movement in NAV per Unit of the private fund".*

**Section 282 J of the Companies Ordinance: -**

*"Penalty for failure, refusal to comply with, or contravention of any provision of this Part.-*

*(1) Notwithstanding anything contained in any other provision of this Ordinance, if a NBFC or the notified entity or its officers (including auditors) fails or refuses to comply with, or contravenes any provision contained in this Part or of any of the provisions of the rules or regulations made under section 282 B or regulation, circular or directive or any direction or order passed by the Commission under the provisions contained in this Part or knowingly and willfully authorizes or*





# SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I  
Adjudication Division

Continuation Sheet - 2 -

*permits such failure, refusal or contravention, shall, in addition to any other liability under this Ordinance, be also punishable with fine the amount of which shall not exceed fifty million rupees:*

*Provided that if the failure, refusal, default, contravention is committed by NBFC or the notified entity, every director, manager, or other officer or person responsible for the conduct of its affairs shall, unless he proves that the failure or contravention or default took place or committed without his knowledge, or that he exercised all diligence to prevent its commission, be deemed to be guilty of the offence."*

9. In order to take cognizance of the aforesaid failure/contravention/non-compliance, the SCN was issued to the Respondents, calling upon them to show cause in writing as to why penalty as provided under **Section 282J of the Ordinance**, may not be imposed on them for the aforementioned contraventions of the law. The Respondents vide letter dated May 23, 2023, submitted response as under:

*"...we would like to inform you that we were unable to make timely compliance of Regulation 8(xx) of the Private Funds Regulations, 2015 read with Section 282J of the Companies Ordinance, 1984 as we are still in process of finalizing the audited accounts as we have not yet received the audited accounts of our portfolio companies which are required for independent valuation.*

*We hope to receive this information very soon enabling us to complete the valuation and finalize the accounts as soon as possible....."*

10. In order to provide opportunity of personal representation, hearing in the matter was fixed for June 01, 2023 before the undersigned, wherein Mr. Jawad Amjad, Chief Executive Officer; and Mr. Muhammad Faizan Sarmad, Chief Finance Officer/Company Secretary, appeared as Authorized Representatives on behalf of the Respondents (**Representatives**). The Representatives were advised to explain the reasons for the alleged non-compliances, as narrated in the SCN.

11. The Representatives reiterated the contents of the aforementioned written response to the SCN, yet admitted the non-compliance / default as alleged in the SCN. However, it was informed that the Respondents had prepared and filed unaudited financial statements for the year ended June 30, 2021. The Representatives further stated that the Respondents are now proceeding towards finalization and submission of audited financial statements of the Private Fund for the financial years ended on June 30, 2021 and June 30, 2022 by the end of June 2023. Moreover, the Representatives asserted that this was not an intentional or willful non-compliance / default and gave assurance of compliance with all applicable laws in the future.

12. I have gone through the facts of the case, available record with the Commission in light of the aforesaid legal provisions and written submission of the Respondents as well as verbal arguments of the Representatives during the hearing and have observed that the Respondent Company was not granted any relaxation with regards to the submission of audited annual financial statements of the Private Fund for the year ended on June 30, 2021. The extension granted with regards to submission of audited annual financial statements of the Private Fund for the year ended on June 30, 2022 was till November 30, 2022. Moreover, the Commission, vide letter dated December 30, 2022 had advised the Respondent Company to prepare and file audited annual financial statements of the Private Fund at the earliest. Thus, the reason provided by the Respondents and reiterated by their Representatives that the



# SECURITIES & EXCHANGE COMMISSION OF PAKISTAN


Adjudication Department-I  
Adjudication Division

Continuation Sheet - 3 -

Respondents were unable to make timely compliance to the alleged non-compliance / default was due to pending audited accounts of its portfolio companies, required for independent valuation, cannot be construed as a cogent reason. The latest status, as provided by the Respondents and their Representatives to this effect (that these annual audited accounts would be furnished by the end of June 2023) further strengthens that the Respondents failed to make timely submission of annual audited account of the Private Fund for the financial years ended on June 30, 2021 and June 30, 2022, as allowed by the Commission in accordance with applicable legal provisions. Although, the Respondents and their Representatives admitted the aforementioned non-compliance / default and showed commitment to submit the annual audited accounts of the Private Fund for both years by the end of June 2023, however, this does not absolve the Respondents from the established non-compliance / default with the requirements of regulation 8(xx) of the Regulations, which attracts the imposition of penalty. Therefore, in exercise of the powers conferred under Section 282J of the Ordinance, I hereby, impose penalty of **Rs. 50,000 /- (Rupees, Fifty Thousand Only)** on the Respondent Company on account of the aforesaid established and conceded non-compliance. Rest of the Respondents are hereby **warned** to ensure compliance with all the regulatory requirements in true letter and spirit, in future.

13. The Company is hereby directed to deposit the afore-mentioned fine in the designated Bank Account maintained in the name of the Securities and Exchange Commission of Pakistan with MCB Bank Limited within thirty (30) days of the date of this Order and furnish received voucher evidencing payment of the same.

14. This Order is issued without prejudice to any other action that the Commission may initiate against the Company and/or its CEO in accordance with the law on matters subsequently investigated or otherwise brought to the knowledge of the Commission.

  
**(Shahzad Afzal Khan)**  
Director/ HOD  
Adjudication Department-I

**Announced:**  
Dated: June 12, 2023  
Islamabad