



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

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Before Amir M. Khan Afridi, Director/ HOD (Adjudication-I)

In the matter of

Saath Microfinance Foundation Pakistan

Show Cause Notice No. & Issue Date: SCD/ADJ/SMFP/61/2019-621 dated April 14, 2022

Dates of Hearing: June 21, 2022 (1st Opportunity)
July 7, 2022 (2nd Opportunity)
July 25, 2022 (final Opportunity)

Present at the Hearing: Non-representation by the Respondent

Date of Order: July 29, 2022

ORDER

UNDER SECTION 282 J OF THE COMPANIES ORDINANCE, 1984 FOR CONTRAVENTION OF CIRCULAR NO. 01 OF 2010

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This Order shall dispose of the proceedings initiated through the aforesaid Show Cause Notice (**the SCN**) issued by the Securities and Exchange Commission of Pakistan (**the Commission**) against **Saath Microfinance Foundation Pakistan (the Respondent and/ or the Company)** for contravention of the provisions of Circular No. 01 of 2010 dated January 15, 2010 (**the Circular**) read with Section 282J of the Companies Ordinance, 1984 (**the Ordinance**).

2. The Company is incorporated under Section 42 of the Ordinance on October 13, 2016 and licensed by the Commission to undertake microfinance business as an NBFC under the Non-Banking Finance Company (Establishment and Regulation) Rules, 2003 (**the NBFC Rules**).

3. The Commission in exercise of its powers conferred under Section 282 D of the Ordinance issued the Circular which requires all the NBFCs to submit their monthly returns through the Specialized Companies Return System (**SCRS**) by the 10th of every next month. Upon review of the record maintained by the Commission it was transpired that the Company had failed to file monthly returns, through SCRS since September 2020.

4. In this regard, the Commission issued a compliance letter dated December 29, 2021, to the Company, however, the Company did not respond and failed to ensure compliance in this regard. Thereafter, the Commission vide email dated February 18, 2022 sought explanation from the Company on the aforesaid observation and the Company vide email dated February 23, 2022 responded as under:

"SCRS returns will be submitted next week due to unavailability of human resource."

[Signature]



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5. Response of the Company was not found cogent and tenable, as the Company was required to submit the returns, through SCRS, by the 10th of each month, whereas the Company had failed to submit the returns, through SCRS, since September 2020 and has not provided reasonable basis for continuous non-filing of its SCRS returns.

6. In view of the above, it is stated that the Company failed to comply with the requirements of the Circular. The said failure on part of the Company attracts initiation of enforcement action under Section 282J of the Ordinance read with the Circular which are reproduced as under;

Circular No. 01 of 2010:

"SECP has developed an online Returns Submission System in order to facilitate the NBFC's industry and to Streamline the submission of information to the Commission. All statements currently being submitted to the NBFC Department at varying periodicities shall be replaced by a standardized monthly return. The details of the system and user manual are placed on the SECP website for your information and assistance. The orientation workshops regarding this system were conducted in December 2009 wherein the representatives from almost all the NBFCs had participated and the feedback received in this respect has been incorporated in the system.

2. *As conveyed during the hearing the workshop, the NBFCs will have to obtain login ID and password from IS&T Department of SECP, to enter the requisite monthly data in the system. For secure submission of returns, Digital Signatures for the CFO and Company Secretary can be acquired from National Institute of Facilitation Technology (NIFT).*

3. *Therefore, in exercise of powers of the Commission under section 282D of the Companies Ordinance, 1984, all the NBFCs are required to submit their monthly returns through the Specialized Companies Returns System (SCRS) by the of 10th every month. However, to facilitate the industry, all NBFCs will be allowed to submit their online returns by the 15th of every month for the first quarter of 2010 only. As such the first monthly return for the month of January 2010 through SCRs shall be submitted by 15th February 2010. All daily reports to NBFC Department shall be dispensed with immediately, while weekly statements shall continue to be submitted till the end of 1st quarter 2010.*

4. *All Companies are required to ensure meticulous compliance with Circular in letter and spirit, failing which action will be taken in terms of applicable provisions of the Law".*

Section 282J of the 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 ¹[or a 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 282B or [regulation, circular or directive or] any direction or order passed by the Commission under the provisions contained in this Part or knowingly and wilfully authorizes or 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, every director, manager, or other officer [or person] responsible for the conduct of its affairs shall, unless he





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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."

7. In order to take cognizance of the aforesaid failure/ contravention/ non-compliance, the SCN was issued to the Company, calling upon it to show cause in writing as to why penalty as provided under **Section 282J of the Ordinance**, may not be imposed on it for the aforementioned contraventions of the law. The SCN was sent to the Respondent through courier on the registered mailing address as well as through the valid email addresses of the Director of the Company available with the Commission.

8. In response to the SCN, the Company vide email dated June 16, 2022 submit as under:

"Reference to the email for AML compliance i want to again inform you the same which i recorded in the last hearing of dated 14th April that we are doing AML compliance at our side in system we are offline due to our AGM is not being on time for that we applied for te direction and received the direction from CRO sukkur and our AGM date is 23rd of june 2022, thats the reason in your system non compliance form our side, because our online reporting is expired from SECP, which only can be active once AGM is done Please note tis in record for AML and SCR untill our AGM date ,after that you can see our compliance , currently on secp portal we are offilne , so please I have briefed this situation in my hearing also Please wait untill our AGM is finalized and active status from SECP online."

9. In order to provide opportunity of personal representation, hearing in the matter was fixed for June 21, 2022; July 7, 2022; and July 25, 2022. All the hearing notices were served to the Respondent through courier as well as through email ids. However, no one appeared on behalf of the Company, despite of giving telephonic assurance by the Director of the Company for attendance in the hearing.

10. Moreover, as per the courier tracking record obtained from the courier service provider, it was observed that the SCN and all the hearing notices were successfully delivered at the registered address of the Company and duly received by Mr. Mirza Khan and/ or Mr. Jamil. Therefore, due to the non-cooperative / non-responsive behavior and continued non-compliance/ contravention of the provisions of the Circular on part of the Respondent, I am left with no other option except to proceed *ex-parte* in the matter on the basis of available record and facts.

11. I have gone through the facts of the case, available record and written submission by the Company in light of the aforesaid legal provisions and observed that the Respondent has not filed the returns through SCRS since September 2020. Moreover, with regard to Respondent's stance of expiry of their online reporting access due to non-holding of Annual General Meeting (AGM); no correspondence for restricting the Respondents' access to online portal of the Commission has been made, even the Direction dated May 27, 2022 for extension on holding the AGM, issued by the Company Registration Office of the Commission, did not referred any such requirement. Therefore, the non-holding of AGM did not restrict the Company for submission of monthly returns through SCRS. Had the online account of the Company expired, the same could be regenerated / reactivated by the Company. Thus, non-compliance / contravention of the Circular is established which attract imposition of penalty. Therefore, in exercise of the powers conferred under Section 282J of the Ordinance, I hereby, impose fine of **Rs.200,000/- (Rupees, Two**



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Hundred Thousand Only) on the Company on account of the aforesaid established non-compliance.

11. 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 receipted voucher evidencing payment of the same.

12. 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.



A handwritten signature in blue ink is located above the official name of the Director/HOD.

(Amir M. Khan Afridi)
Director/HOD (Adj-I)