



# Securities and Exchange Commission of Pakistan

Adjudication Division  
Adjudication Department 1

655

Through Courier

Before the Executive Director

In the matter of Show Cause Notice issued to M/s. Fortune Securities Limited

Date of Hearing	December 20, 2019
Present at the Hearing Representing Fortune Securities Limited	i. Mr. Anis Rehman (Chief Executive Officer) ii. Mr. Abdul Wahab (Compliance Officer)

## ORDER

This Order shall dispose of the proceedings initiated against the Fortune Securities Limited (the “Respondent”) through Show Cause Notice No. **1**(156) SMD/ADJ-1/KHI/2019, dated December 13, 2019 (the “SCN”) under Section 40A of the Securities and Exchange Commission of Pakistan Act 1997 (the “Act”).

2. Brief facts of the case are as follows:

- (a) The Respondent is a Trading Rights Entitlement Certificate (TREC) holder of the Pakistan Stock Exchange Limited (the “PSX”) and licensed as a securities broker under the Securities Act, 2015.
- (b) The inspection (the “Inspection”) of the Respondent was conducted by the Commission to ascertain compliance with requirements contained in Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 (the “AML Regulations”).

3. The Inspection revealed non-compliances with the AML Regulations; detailed as under:

- i. Regulation 4(a) of the AML Regulations requires a securities broker/future brokers to develop and implement policies, procedures and controls, which are approved by its board of directors, to enable the securities broker to effectively manage and mitigate the risks that are identified in the risk assessment of ML/TF or notified by the Commission. Furthermore, Regulation 13(7) stipulates that broker/future brokers should monitor their relationships with the entities and individuals mentioned in sub-regulation (5a) of regulation 6, on a continuous basis and ensure that no such relationship exists directly or indirectly, through ultimate control of an account and where any such relationship is found, the regulated person shall take immediate action as per law, including freezing the funds and assets of such proscribed entity/individual and reporting to the Commission. In the aforesaid





# Securities and Exchange Commission of Pakistan

Adjudication Division  
Adjudication Department 1

656

contexts, names of 12 individual/organizations, randomly selected from the list of persons designated under United Nations Security Council Resolutions adopted by the Government of Pakistan and proscribed under Anti-Terrorism Act 1997, were provided to the broker during the inspection to check the effectiveness of its screening system. The inspection team noted that out of 12 names only 03 names were successfully screened by the system while the screening system failed to screen the remaining 09 names, therefore, the system and control implemented by the Respondent was not effective. Inspection also revealed that the Respondent does not has a centralized database of joint account/Board of Directors/Trustees etc. related to its clients, therefore, the Respondent did not screen these names in the entities and individuals covered in sub-regulation (5a) of regulation 6 at the time of establishment of relationship and continuing relationship with such customers, in violation of Regulation 4(a) and 13 (7) of AML Regulations.

- ii. Regulation 6(4) of the AML Regulations requires a securities broker/Futures broker to obtain such documents from different types of customers as provided in Annexure-I. It was revealed that the Respondent did not validate the identity documents of its nine customers through NADRA Verysis, in violation of Regulation 6(4) of AML Regulations.
- iii. Regulation 6(3) of the AML Regulations requires a securities broker /futures broker to perform CDD by identifying the customer or beneficial owner and verifying the customer's/beneficial owner's identity on the basis of documents, data or information obtained from customer and/or from reliable and independent sources. It was revealed that in 4 instances Respondent did not obtain copy of CNIC of main applicant and nominees with clients account opening forms etc., in violation of the Regulation 6(3) of the AML Regulations.
- iv. Regulation 6(5) of the AML Regulations requires a securities broker/futures broker to verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or may complete verification after the establishment of the business relationship. It was revealed that in 3 instances Respondent did not ascertain beneficial ownership of their clients, in violation of the Regulation 6(5) of the AML Regulations.
- v. Regulation 9(4)(a) of the AML Regulations requires a securities broker/futures broker to take the Enhanced Due Diligence (EDD) measures and if any customer presents high risk then obtain approval from senior management of regulated person to establish or continue business relations with such customers. It was revealed that the Respondent failed to provide evidence of specific approval of senior management in case of establishing or continuing relationship with seven high risk customers, in violations of Regulation 9(4)(a) of the AML Regulations.
- vi. Regulation 11(2) of the AML Regulations requires that the decision to rate a customer as low risk shall be justified in writing. It was revealed that the Respondent failed to provide





# Securities and Exchange Commission of Pakistan

Adjudication Division  
Adjudication Department 1

657

evidence of recording justification for categorizing three customers as low risk, in violation of Regulation 11(2) of the AML Regulations.

vii. Regulation 13 (1) of the AML Regulations states that all business relations with customers shall be monitored on an ongoing basis to ensure that the transactions are consistent with the regulated person's knowledge of the customer, its business and risk profile and where appropriate, the sources of funds. It was revealed that in 2 instances Respondent has no record for ongoing monitoring, in violation of the Regulation 13(1) of the AML Regulations.

viii. Regulation 13(3) of the AML Regulations states that regulated person shall periodically review the adequacy of customer information obtained in respect of customers and beneficial owners and ensure that the information is kept up to date and relevant, by undertaking reviews of the existing records, particularly for higher risk categories of customers and the review period and procedures thereof should be defined by regulated person in their AML/CFT policies, as per risk-based approach. It was revealed that in 3 instances Respondent did not periodically review it due to not available of record, in violation of the Regulation 13(3) of the AML Regulations.

4. It appeared from the preceding that the Respondent *prima facie* acted in contravention of the AML Regulations. Accordingly, the Commission took cognizance of the aforementioned facts and served the SCN requiring the Respondent to explain its stance in person on December 20, 2019. The Respondent did not submit its reply of SCN.

5. The Respondent was accorded an opportunity of personal hearing dated December 20, 2019. The hearing was attended by Mr. Anis Rehman (Chief Executive Officer) & Mr. Abdul Wahab (Compliance Officer) as Authorized Representatives. During the hearing proceedings, the Authorized Representatives reiterated the argument as submitted in response to the letter of finding.

6. I have examined the submissions of the Respondent and its Authorized Representatives. In this regard, I observe that:

i. With regard the violation of Regulations 4(a) and 13(7), during the hearing, the Authorized Representatives admitted that currently, there is no centralized database of joint account/Board of Directors/Trustees etc. related to its clients, and now Respondent has requested its vendor to provide full length screening interface covering all applicable lists of proscribed/sanctioned persons and organizations. Therefore, the Respondent did not screen these names in the entities and individuals covered in sub-regulation (5a) of regulation 6 at the time of establishment of relationship and continuing relationship with such customers.

ii. With regard the violation of Regulation 6(4), the Respondent has failed to submit any evidence to confirm that the Respondent had validated the identity documents of its nine highlighted customers through NADRA Verysis. Furthermore, in response to the letter of finding, the



Reem



# Securities and Exchange Commission of Pakistan

Adjudication Division  
Adjudication Department I

658

- Respondent submitted that the Respondent had a Verisys system till first half of 2019 but as all new accounts are being opened after Biometric thumb verification of NADRA system, their understanding was that performing this exercise again is a duplication of work and wastage of resources.
- iii. With regard the violation of Regulation 6(3), the Respondent has failed to furnish any proper evidence in support of their stance that they have done CDD of 4 highlighted instances. During the hearing, the authorized representatives submitted that subsequent to the Inspection, they carried out CCD of 3 of the identified cases. Authorized Representatives further submitted that 4th identified account was inactive, therefore, Respondent has requested the customer to close her account.
- iv. With regard the violation of Regulation 6(5), the Authorized Representatives accepted that Respondent that did not ascertain beneficial ownership of the highlighted clients at the time of account opening. However, they informed that subsequently Respondent complied with the requirements of Regulation 6(5).
- v. With regard to the violation of Regulation 9(4)(a), the Respondent has failed to furnish any evidence that specific approvals of the Respondent's senior management were obtained against seven highlighted instances of high risk customers. Further, during the hearing, the Authorized Representatives submitted that before establishing relationship with any client, account opening form is duly approved by the senior management and Chief Executive Officer has the blanket approval for opening or maintaining business relationship with "High Risk" clients. The response is not tenable on the following grounds:
- a. Account opening form and the Know Your Customer (KYC) Form is required to be filled for every customer, However, the senior management approval under Regulation 9(4)(a) is only required for customer who presents high risk of ML/TF.
- b. The senior management approval under Regulation 9(4)(a) is not only required to establish business relations with high risk customers but also to continue business with such customer. Therefore, the requirement is of ongoing nature and cannot be a onetime exercise at the time of submission of account opening form by the customer.
- vi. With regard to the violation of Regulation 11(2), the Respondent has failed to furnish any evidence of recording justification for categorizing three 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.
- vii. With regard to the violation of Regulation 13(1), Authorized Representatives submitted that subsequent to the Inspection, Respondent complied with the requirement of the regulatory framework.





**Securities and Exchange Commission of Pakistan**  
Adjudication Division  
Adjudication Department 1

659

- viii. With regard to the violation of Regulation 13(3), Authorized Representatives submitted that subsequent to the Inspection, Respondent complied with the requirement of the regulatory framework.
7. I have noted that Respondent has taken remedial measures on defaults identified during the Inspection. Moreover, Respondents did not engaged themselves in undue contest of the SCN.
8. 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.
9. The Respondent is directed to deposit the aforesaid penalty in the account of the Commission being maintained in the designated branches of MCB Bank Limited within 30 days of the date of this Order and furnish Original Deposit Challan to this office.
10. This Order is issued without prejudice to any other action that the Commission may initiate against the Respondent in accordance with the law on matter subsequently investigated or otherwise brought to the knowledge of the Commission.



*Ali Azeem Ikram*

**(Ali Azeem Ikram)**

Executive Director (Adjudication Department-1)

Announced on December 26, 2019  
Islamabad