



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 15 of 2020

BIPL Securities Limited

...Appellant

Versus

Executive Director, Adjudication – 1

...Respondent

Date of hearing:

January 30th, 2025

Present:

For the Appellant:

Mr. Arbaz Ahmed Yar Khan (Legal Counsel)

For the Respondent:

1. Mr. Sohail Qadri (HOD-Adjudication-I, SECP)
2. Mr. Muhammad Akram (Assistant Director-Adjudication-I, SECP)

ORDER

1. This Order shall dispose of Appeal No. 15 of 2020 filed by BIPL Securities Limited (“the Appellant”) through its Compliance Officer Mr. Muhammad Zubair along with the legal counsel Mr. Arbaz Ahmed Khan, (“the Authorized Representative”) under Section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 (the “the SECP Act”) against the Order dated January 07, 2020 (the “Impugned Order”) passed by the Executive Director (Adjudication-I) (“the Respondent”) under Section 40A of the Securities and Exchange Commission of Pakistan Act, 1997 (“the Act”).
2. The brief facts of the case are that the Appellant is a Trading Rights Entitlement Certificate (“TREC”) holder of the Pakistan Stock Exchange Limited (“PSX”) and licensed as a Securities Broker under the Securities Act, 2015. A compliance inspection (“the Inspection”) of the Appellant was conducted by the Securities and Exchange Commission of Pakistan (“the Commission”). The Inspection aimed to assess compliance of the



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Appellant with the Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 (“the AML Regulations”). The Inspection inter alia, revealed several non-compliances where the Appellant had failed to comply with the applicable provisions, i.e., Regulations 11(2), 13(3), 4(a) and 13(7) of the AML Regulations. Pursuant to the inspection a Show-Cause Notice (“the SCN”) dated December 16th, 2019 was issued to the Appellant requiring a written reply to the SCN. The Appellant vide its letter dated December 20th, 2019 submitted reply to the SCN. The Appellants were accorded an opportunity to personal hearing on December 24th, 2019. After examining the submissions and considering the facts it was established that the Appellant not only failed to provide written justification for categorizing its clients as low risk, ensure ongoing monitoring, and provide evidence that manual screening was being carried out, but also failed to maintain database and subsequently the Respondent, in exercise of powers conferred under Section 40A of the Act imposed a penalty of Rs.300,000/- (Rupees Three Hundred and Fifty Thousand Only) on the Appellants for the aforementioned contraventions of the AML Regulations.

3. The Appellant filed this Appeal on several grounds, including the assertion that the Impugned Order lacks a proper appreciation of facts and law. The Authorized Representative for the Appellant contended that the Impugned Order penalized the Appellant without considering the efforts by the Appellant to ensure compliance with the AML Regulations. The Authorized Representative contended the allegation with regard to the Appellants failure to provide written justification for categorizing its clients as low risk, and submitted that the risk profiling checklist provided the process for determining low-risk clients, which included application forms and documents. Furthermore, the Authorized Representative submitted that the Appellant’s anti-money laundering policy was incorporated after its approval by the Board and pursuant to this the Appellant initiated the process of updating its clients’ profiles to ensure ongoing monitoring. The Authorized Representative submitted that the Appellant was monitoring its clients as per Regulation 13(7) of the AML Regulations. Moreover, the Authorized Representative submitted that the mechanism used for monitoring is constantly being updated and improved to negate the risk of money laundering. The Authorized Representative further asserted that the Appellants response to the SCN was misread and misconstrued while passing of the Impugned Order. The Authorized Representative submitted that the Impugned Order violates Article 10-A of the Constitution of Pakistan and Section 24-A of General Clauses



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Act, 1897 and asserted that the “content” of the Impugned Order is a mere repetition of the stance adopted in the SCN which demonstrates the Respondents failure to determine the alleged violations on merit. Furthermore, the Authorized Representative submitted that the Respondent erred in holding the Appellant in violation of the AML Regulations and highlighted that not only was the Appellant compliant with the AML Regulations but had also responded to each alleged violation demonstrating that the Appellant is not in violation of the AML Regulations. Moreover, the Authorized Representative submitted that the Respondent was incorrect to allege that the Appellant did not engage in undue contest of the SCN because the Appellant did respond to each allegation and established its compliance with the AML Regulations. The Authorized Representative also submitted that the Impugned Order fails to meet the requirements of Section 40A of the SECP Act, 1997, and hence, imposing a penalty of Rs. 300,000/- is not justified, particularly, as the Appellant was compliant of the AML Regulations. On the basis of these contentions the Appellant requested the Bench to set aside the Impugned Order and give any other relief that the Honourable Appellate Bench deems fit and appropriate, taking into consideration the aforementioned contextual factors.

4. The Respondent countered the grounds of the Appeal and proffered arguments. The Respondent, in response to the Appellant’s contention, emphasized that not only was the Impugned Order issued in strict accordance with the law but also after a thorough consideration of the facts presented in this case. The Respondent countered the submission and highlighted that the requirement of recording the justification in written could not be substituted with the checklist. Furthermore, the Respondent submitted that the Regulations were promulgated in June 2018 and warranted immediate efforts towards implementation, however, the Appellant initiated efforts for information only after the observations were highlighted by the inspection team. Pursuant to this, the Respondent submitted that the process of updating client’s profiles should have been done at its earliest. Moreover, the Respondent submitted that the mechanism used for customer screening could only search the lists on NACTA website and was not capable of screening data from PDF (“SRO’s”) on the website neither could the Appellant furnish any documentary evidence to prove that manual screening of the SRO’s was being undertaken. Moreover, the Respondent highlighted that the Appellant admitted the lack of a database, and therefore it was established that at the time of establishing and continuing relationship the Appellant could not have screened the names of the entities and individuals covered in sub-regulation 5(a)

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or Regulation 6. The Respondent submitted that the Impugned Order is fair and was passed after due consideration of the facts of the case and the established non-compliance of the AML Regulation by the Appellant. Lastly, the Respondent submitted the Impugned Order itself is a speaking Order.

5. The Bench has heard the arguments of both the parties and perused the record. The Bench is of the opinion that the Appellant was obligated to fully comply with the relevant AML Regulations, and that the Appellant failed to maintain a database and ensure ongoing monitoring for its clients. However, it is also noted that the Appellant did initiate the process to update its clients' profile, nonetheless, this was done after a considerable delay while it should have been done at its earliest. The Bench is hopeful that in future the Appellant will be highly vigilant in adhering to the AML Regulation. The Bench has also observed that the Appellant has made efforts to rectify the non-compliance and is striving to adhere to the AML Regulations.
6. In view of the foregoing, the Bench, considers it justified to reduce the penalty to Rs.120,000/-. The instant Appeal is disposed of on above terms without any order as to costs.

(Abdul Rehman Warraich)
Commissioner

(Mujtaba Ahmad Lodhi)
Commissioner

Announced On:

11 APR 2025