



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 16 of 2020

Adam Securities Limited

...Appellant

Versus

Executive Director, Adjudication-I

...Respondent

Date of hearing:

16th April, 2025

Present:

For the Appellant:

Mr. Muhammad Ali Zubair (Authorized Representative)

For the Respondent:

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

ORDER

1. This Order shall dispose of Appeal No. 16 of 2020 filed by Adam Securities Limited (the "Appellant") under Section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 (the "the SECP Act") against the Order dated January 24, 2020 (the "Impugned Order") passed by the Executive Director, Adjudication-I ("the Respondent") under the Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 ("the AML & CFT Regulations") and Section 40A of the SECP Act.
2. The brief facts of the case are that the Appellant is a Trading Rights Entitlement Certificate holder of the Pakistan Stock Exchange Limited ("the PSX") and a member of the Pakistan Mercantile Exchange Limited ("the PMEX"). The first inspection of the Appellant was



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conducted by a Joint Investigation Team (“the JIT”) in pursuance of Notice No. T027 and another inspection was conducted by the PMEX through its order number PMEX/RAD/822/2019 with the aim to review and check compliance with the AML & CFT Regulations. The inspections revealed non-compliances of Regulations 4(a), 13(7), 4(d), 6(3)(c), 6(3)(a), 6(5)(a), 9(1), 4(c), 9(4)(b), and 15(3) of the AML & CFT Regulations

3. In light of the aforementioned violations, a Show Cause Notice dated December 18, 2019 (the “SCN”) was issued to the Appellant. A reply to the SCN was submitted by the Appellant on December 26, 2019. Accordingly, the Appellant was accorded an opportunity of personal hearing on January 2, 2019. Subsequently, the Respondent not being satisfied with the response and stance of the Appellant and in exercise of powers conferred under Section 40A of the SECP Act, imposed a penalty of Rs. 300,000/- (Rupees Three Hundred Thousand Only) on the Appellant for the aforementioned contraventions of the AML & CFT Regulations.
4. The Appellant has preferred this Appeal, *inter alia*, on several grounds, including the assertion that the Impugned Order lacks a proper appreciation of the relevant law and facts of the matter. The Authorized Representative for the Appellant contended before the Appellate Bench (the “Bench”) that the Respondent failed to acknowledge the Appellant’s good standing in the market since 2001. The Authorized Representative contended that the Respondent, under paragraph 6(ii) of the Impugned Order, erred in concluding that the Appellant failed to ensure the independence of the Chief Internal Auditor. It was submitted that the Appellant had duly submitted minutes of Board meetings to substantiate that the Internal Auditor directly reported to the Board of Directors, thereby ensuring his independence as required under Regulation 4(d) of the AML & CFT Regulations.
5. With reference to the allegations made under paragraph 6(iv) of the Impugned Order concerning inadequate verification of a client’s source of income, the Authorized Representative submitted that the Appellant had undertaken a detailed due diligence process and furnished; a snapshot of the client profile from the internal system evidencing source of funds, CNIC of the client’s sponsor, evidence of property ownership and rental income, and monthly monitoring reports demonstrating ongoing surveillance. The Authorized Representative submitted that despite the detailed documentation, the Respondent deemed the documents as “not enough” without stating the specific deficiency



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or referencing any statutory or regulatory provision requiring further evidence. The Authorized Representative further submitted that the Regulations do not stipulate what constitutes “sufficient” documentary evidence in such cases. In pursuance, it was contended that the Appellant undertook due diligence under the AML & CFT Regulations and hence cannot be deemed to be non-compliant of the said Regulations.

6. Moreover, with regard to allegations made in paragraph 6(v) of the Impugned Order, the Authorized Representative submitted that in the case of another client, the Appellant furnished proof of remittance from the client’s brother, including account statements from UAE Exchange and supporting remittance slips. In addition, the Appellant had obtained the brother’s ID and salary slip, conducted real-time verification, and ensured ongoing monitoring, as required under the applicable AML & CFT Regulations. The Appellant therefore classified the client as “medium risk” based on documented justification, and in absence of any suspicious activity, such classification was reasonable.
7. It was further submitted that in the matter of record-keeping and verification of corporate clients, the Appellant had submitted audited financial statements, KYC of directors, MOA/AOA, Forms A and 29, and PACRA reports. Despite this, the Respondent incorrectly inferred non-compliance. It was submitted that the Appellant had in fact fully complied with the applicable record retention and screening obligations under the Regulations. The Authorized Representative also submitted that the Respondent itself acknowledged in the Impugned Order that the Appellant had either rectified or was in the process of rectifying the alleged defaults. Relying on the doctrine of *stare decisis*, it was submitted that such remedial efforts have been considered as mitigating circumstances in a previous order rendered by the Bench. The Authorized Representative referred to the case of, *JSK Securities Limited v Commissioner (2018 CLD 1211)* where the penalty was converted to a warning. The Appellant asserted that, in accordance with established precedent, a warning would have been the proportionate and fair outcome in the present case as well. The Authorized Representative further invoked the jurisprudence of the superior courts while relying on the case of *Habib Bank Ltd. V WRSM Trading Company, LLC (2018 CLD 1282)*, wherein it was held that procedural oversights, if any, should not override substantive justice and should not be allowed to frustrate the purpose of regulatory compliance and that “Courts ought not to adopt arbitrary procedures and ignore established practices but at the same time court must not become slave to technicalities and create a fetish of

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procedures to the obvious detriment of litigants. Court must make every effort to interpret the law in such a manner as to render amendments effective rather than nugatory". The Appellant further emphasized that the Respondent's rigid approach to procedural expectations, without consideration of intent, efforts, or documentation provided, was inconsistent with the principles of equity and administrative fairness.

8. Lastly, the Authorized Representative asserted that the Appellant underscored its reputation as a law-abiding regulated entity with a consistent track record of compliance. It was submitted that where a warning is sufficient to deter recurrence, the imposition of a monetary penalty is excessive and contrary to the principles of proportionality in enforcement. The Appellant also referred to the precedent set out by the Bench in the case of *Alpha Insurance Limited (2016 CLD 353)*, where penalty was not imposed on first-time or minor violations, and instead a stern warning was issued. In view of the above, the Appellant prayed for the annulment of the Impugned Order and setting aside of the penalty imposed under Section 40A of the SECP Act, 1997, and requested such other reliefs as may be deemed just and equitable by the Bench.

9. In response, the Respondent countered the grounds of the Appeal and proffered arguments by emphasizing that the Impugned Order was not only issued in strict accordance with the law but also after thorough consideration of the facts presented in the matter. The Respondent rejected the Appellant's assertion that the internal audit function was independent. It was submitted that the Appellant's own organogram revealed that the Chief Internal Auditor reported to the Chief Executive Officer rather than directly to the Board of Directors, which undermines the independence of the internal audit function. In accordance with Regulation 4(d) of the Regulations, the independence of the audit function is a prerequisite for effectively testing the AML & CFT systems, which the Appellant failed to ensure. The Respondent emphasized that independence must be demonstrated through documentation such as audit reports, meeting records with the Board or its committees, and audit oversight frameworks, which were not furnished.

10. The Respondent further submitted that during inspection, 27 instances were identified where customer identity documents were not validated through NADRA *Verisys*. The Appellant's subsequent correspondence with PSX and the execution of a validation agreement in December, 2019 confirmed that such validation measures were not in place



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at the time of inspection, thus substantiating the violation of Regulation 6(4) of the AML & CFT Regulations. It was argued that *post facto* compliance cannot absolve a prior breach and instead constitutes an implied admission of default.

11. In response to the Appellant's justification of due diligence regarding a housewife client, the Respondent contended that no bank statements were provided to substantiate the flow of funds from the declared sponsor to the client. The rental receipts and property documents were either outdated or obtained after the issuance of the SCN. The Respondent stated that the Appellant had failed to perform ongoing monitoring and verify the source of funds through regular matching with reliable and independent documentation as required under Regulation 6(3)(c). Regarding the categorization of another client as "medium risk," the Respondent submitted that the Appellant failed to provide complete documentation demonstrating the flow of remittances from the client's brother in the UAE. The Respondent asserted that, while certain documents such as the CNIC and an employment letter were submitted, the Appellant did not provide financial instruments evidencing the actual transfer and utilization of the funds for trading. Additionally, no valid UAE visa or employment documents were submitted for the relevant period (2016–2019), leaving the source and ownership of funds unverifiable in contravention of Regulation 6(3)(a) of the AML & CFT Regulations

12. The Respondent emphasized that in accordance with the SECP AML & CFT Guidelines, enhanced due diligence (the "EDD") is mandatory in high-risk situations and includes obtaining detailed information on the source of wealth, fund flows, intended transactions, and obtaining senior management approval. The Appellant's documentation fell short of these requirements, especially considering the large volume of transactions recorded. On the issue of corporate clients, the Respondent submitted that despite the Appellant's claim of obtaining audited financials and corporate records, the specific source of wealth of beneficial owners was not established through personal tax returns or wealth statements which was a violation of Regulation 9(4)(b) of the AML & CFT Regulations.

13. With respect to record-keeping obligations under Regulation 15(3), the Respondent stated that the Appellant failed to retain screening verification records of individual client. Instead, the Appellant generated an aggregate "nil match" report for its entire client portfolio, which did not meet the requirement of maintaining specific, client-level evidence



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of AML & CFT screening. The Respondent also denied the Appellant's claim that it had a clean compliance record, submitting that internal controls were weak, particularly in terms of continuous screening for proscribed entities and verification of ultimate beneficial ownership. The Respondent highlighted that many of the compliance measures were implemented only after the inspection had taken place, and that ongoing monitoring, verification, and system-based controls were either deficient or entirely absent at the time.

14. The Respondent further submitted that the Appellant failed to demonstrate effective implementation of an AML & CFT risk management framework. It was submitted that the Appellant's reliance on precedent for leniency was misplaced as each case must be evaluated on its own facts and circumstances. The extent of procedural lapses, lack of documentary evidence, and deficiencies in AML control mechanisms in the present case justified the imposition of penalty under Section 40A of the SECP Act.
15. The Bench has carefully considered the submissions made by both the Appellant and the Respondent and has examined the record in detail. The Bench acknowledges that the Appellant raised several substantive objections to the Impugned Order, asserting that due diligence was conducted in accordance with applicable AML & CFT Regulations, and that documentary evidence was nonetheless sufficient and indicative of bona fide compliance efforts. The Bench is of the view that several observations were subsequently addressed and that internal systems had since then been strengthened, including implementation of screening for the purposes of on-going monitoring, remediation of verification gaps, and updating of client records.
16. Conversely, the Respondent maintained that the deficiencies identified during inspection were material and indicative of inadequate internal controls, particularly in relation to the verification of source of funds, beneficial ownership, and maintenance of screening records. The Respondent submitted that certain documents were submitted post-inspection and that, at the relevant time, the Appellant's compliance practices fell short of the regulatory threshold, particularly under Regulations 6(3), 6(4), 9(4)(b), and 15(3) of the AML/CFT Regulations.
17. Having considered the arguments put forth by the parties, the Bench is of the view that while there were indeed shortcomings in the Appellant's compliance with the AML & CFT



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Regulations at the time of inspection, these did not amount to willful or systemic violations. The Appellant's conduct; marked by prompt rectification, improved internal controls, and absence of financial loss or facilitation of proscribed individuals, supports a finding that the non-compliance was technical. The Bench finds merit in the Appellant's plea for proportionality and notes that the record evidences substantial steps taken post-inspection to align with regulatory requirements.

18. Accordingly, while upholding the finding of non-compliance, but considering the nature of the violations, the Appellant's ongoing compliance efforts and the subsequent remedial actions, the Bench considers it reasonable to reduce the amount of penalty imposed from **Rs. 300,000/- (Rupees Three Hundred Thousand) to Rs. 200,000/- (Rupees Two Hundred Thousand)**. The Appellant is further advised to exercise enhanced vigilance and ensure strict and ongoing compliance with the AML/CFT Regulations in the future.

19. In view of the above discussion, the instant Appeal is disposed of with no order as to costs.

(Abdul Rehman Warraich)
Commissioner

(Mujtaba Ahmad Lodhi)
Commissioner

Announced On:

19 JUN 2025