



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 26 of 2021

We Financial Services Limited

Appellant

Versus

Director/HOD Adjudication-I

Respondent

Date of hearing:

April 25, 2024

Present:

For the Appellant:

1. Mr. Humayun Javed,
2. Mr. Ameer Nousherwan

For the Respondent:

1. Mr. Mahboob Ahmed, Additional Director, Adjudication-I, SECP
2. Mr. Muhammad Faisal, Assistant Director, Adjudication-I, SECP

ORDER

1. This Order shall dispose of Appeal No. 26 of 2021 filed by We Financial Services Limited (the Appellant) against the Order dated December 31, 2020 (Impugned Order) passed by the Commissioner Securities Market Division, SECP (the Respondent).
2. The brief facts of the case are that the Appellant is a trading rights entitlement certificate holder of the Pakistan Stock Exchange (PSX) and is licensed as a securities broker with the Securities and Exchange Commission of Pakistan (the Commission). The Joint Inspection team of PSX, central Depository

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Company of Pakistan Limited and National Clearing Company of Pakistan Limited conducted a thematic review of the Appellant to assess its compliance with regulatory requirements contained in SECP Anti Money Laundering and Counter Financing of Terrorism Regulations, 2018 (the AML Regulations). The inspection revealed the following non-compliance of the AML Regulations:

- i. In violation of Regulation 4(a) and Regulation 13(7) the Appellant failed to have database of beneficial owners of clients and did not have screening mechanism for authorized person. The Appellant could not provide evidence substantiating existence of such data base at the time of inspection.
 - ii. In Violation of Regulation 15(4) of the AML Regulations, the Appellant failed to retain records of screening performed of its clients and failed to provide any documentary evidence and clients ledgers to the inspection team.
 - iii. In violation of Regulation 6(3)(a) of the AML Regulations, the Appellant did not maintain record of business, occupation and source of income of beneficial owners in 4 instances.
 - iv. In violation of Regulation 9(4), the Appellant failed to demonstrate that information regarding the client risk profiling. The Appellant categorized four of its client as high risk, however, procedure of enhance due diligence was not applied. Information regarding the nature of income and source of funding of clients was not available.
 - v. The violation of Regulation 6(4), the Appellant failed to validate from NADRA verisys the identity documents of 15 clients.
3. In view of the above violations, the Respondent issued the show-cause notice dated January 31, 2020 (the SCN) to the Appellant. The Appellant submitted a written reply to the SCN and hearing in the matter was held on October 28, 2020. The Respondent concluded the SCN proceedings and imposed a penalty of Rs. 600,000/- on the Appellant.
4. The Appellant filed this Appeal *inter alia* on the grounds that the Respondent wrongly observed that it had failed to comply with the requirements of the AML Regulations. The Appellant further contended that it always carried out the required due diligence in a timely manner relating to CDD. The Appellate has taken the plea that the Impugned Order is based on mere procedural lapses and



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some of the observations were even duly rectified by the Appellant. The Appellant further contended that NADRA Verisys facility was not available at the relevant time and it was offered to the Appellant after request was made by the Commission.

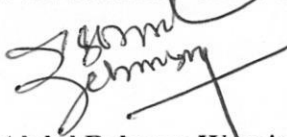
5. The Respondent rebutted the Appellants' grounds of appeal and stated that the AML Regulations' requirements had been violated by the Appellant. The Respondent stated that the Appellant failed to provide the sources of income of certain clients, therefore, it failed to carryout adequate CDD procedure and mechanism. The Respondent stated that the Appellant also failed to perform enhanced due diligence of its clients who were categorized as 'high risk'. The Respondent further stated that the Appellant failed to provide evidence that it had an adequate ongoing monitoring mechanism of its clients.
6. The Appellate Bench (the Bench) has heard the parties and perused the record. The Bench is of the view that the Appellant's assertions are insignificant to challenge the findings of the Impugned Order because the Appellant failed to prove that it had an adequate and appropriate mechanism of CDD and enhanced due diligence. The Bench has no doubt that CDD and enhanced due diligence requirements are core to the AML Regulations and are necessary to combat with money laundering activities in Pakistan. Furthermore, in addition to CDD and enhanced due diligence of clients, it was obligatory for the Appellant to ensure a thorough ongoing monitoring mechanism that categorizes the clients' risk profiles and sources of fund as well as ensure compliance. However, the Bench believes that keeping in view the low severity of the violations, the quantum of penalty is not proportionate. Furthermore, the NADRA Verisys facility was also not available at the relevant time and it was subsequently offered by NADRA. In view thereof, the Bench is inclined to reduce the amount of the penalty imposed on the Appellant. The Bench expects that the Appellant would fully comply with the requirements of the AML Regulations in the future.
7. In view of the foregoing, the Bench, considers it justified to reduce the penalty to Rs. 300,000/-. Accordingly, the instant Appeal is disposed of on above terms without any order as to costs.


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(Abdul Rehman Warriach)
Commissioner


(Mujtaba Ahmed Lodhi)
Commissioner

Announced on:

10 JUN 2024