



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 27 of 2020

Trust Securities & Brokerage Limited

...Appellant

Versus

Executive Director/HOD, Adjudication -1

...Respondent

Date of hearings:

May 10, 2024

May 13, 2024

Present:

For the Appellant:

1. Mr. Khizar Hayat Farooq
2. Mr. Muhammad Umair Ansari
3. Mr. Muhammad Ashraf

For the Respondent:

1. Mr. Mahboob Ahmad, Additional Director, Adjudication-I, SECP
2. Mr. Muhammad Akram Farooka Assistant Director, Adjudication-I, SECP



Securities and Exchange Commission of Pakistan

ORDER

1. This Order shall dispose of Appeal No. 27 of 2020 filed by Trust Securities Limited (the “Appellant”) through Mr. Abdul Basit Chief Executive Officer (the “Authorized Representative”) under Section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 (the “SECP Act”) against the Order dated March 06, 2020 (the “Impugned Order”) passed by the Executive Director/Head of Department Adjudication-I (the “Respondent”) under Section 40A of the SECP Act read with the Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 (the “Regulations”).
2. The brief facts of the case are that the Appellant is a trading rights entitlement certification holder of the Pakistan Stock Exchange Limited (the “PSX”) and member of Pakistan Mercantile Exchange Limited (the “PMEX”). The joint inspection team of PSX, Central Depository Company of Pakistan Limited and National Clearing Company of Pakistan Limited (the “JIT”) conducted a thematic review of the Appellant to assess the compliance of the Appellant with the Regulations. During the inspection a number of instances were observed where the Appellant had failed to comply with the applicable provisions of the Regulations including regulation 4(a), 6(3)(c), 6(5)(a), 6(8), 9(4), 13(1), 13(3), 13(7). In light of these violations, the Show-Cause Notice dated January 07, 2020 (the “SCN”), was issued to the Appellant. The Appellant responded on January 14, 2020, and a hearing was scheduled for January 20, 2020. After examining the submissions and considering the facts, the Respondent, in exercise of powers conferred under Section 40A of the SECP Act, imposed a penalty of Rs. 475,000/- on the Appellant for the aforementioned contraventions of the Regulations.
3. The Appellant has preferred this Appeal, *inter alia*, on the grounds that the Appellant maintains an ongoing monitoring system. The Appellant asserted that during the JIT review, its software vendor was in the process of developing a software module designed to insert details of authorized persons, Board of Directors (BOD), trustees, office bearers, and ultimate beneficial owners for the purposes of automated screening. The Appellant further asserted that, prior to the implementation of this module, it was conducting manual screenings of its customers. The Appellant contends that the Respondent's allegation, which posits that manual screening was insufficient, is untenable. The Appellant argued that manual screening was in compliance with the relevant laws, which do not specifically mandate online



Securities and Exchange Commission of Pakistan

screening. Moreover, the Appellant submits that it had taken reasonable steps to identify beneficial ownership and ascertain the source of funds or income of its clients. In particular, with respect to the enhanced due diligence (EDD) conducted for one customer, the Appellant notes that it was acquainted with the customer's husband, who was identified as the beneficial owner. The Appellant further substantiates its position by citing possession of the beneficial owner's business card, who was employed abroad, which in the Appellant's view, constituted sufficient proof. The Appellant reiterates that it has an ongoing monitoring system in place. In light of these circumstances, the Appellant prayed before the Bench to adopt a lenient view, duly considering the aforementioned contextual factors.

4. The Respondent countered the grounds of the Appeal and proffered arguments delineating that violations of the Regulations were manifestly discernible during the course of the inspection. Specifically, the Respondent highlighted instances where the beneficial owners of the investments of two housewives were missing. Furthermore, the Respondent asserted that the ongoing monitoring was insufficient, citing two instances where evidence of the source of income was not properly provided. The Respondent also contended that the Company lacked a system to periodically screen shareholders of corporate clients through the United Nations Security Council Resolutions (UNSCR) and National Counter Terrorism Authority (NACTA) lists, as the Appellant was not maintaining details of proscribed persons. Conclusively, the Respondent reemphasized the observed violations of the Regulations by the Appellant during the course of the inspection, establishing the Appellant's pecuniary penalties in accordance with the legal framework.

5. The Bench has heard the arguments of both the parties and perused the record. The Bench is of the opinion that the Appellant had an obligation to adhere to the relevant requirements of the Regulations which should have been followed by the Appellant in true letter and spirit. In this particular case, the Appellant did not maintain the electronic screening but manual screening of the same were being done by the Appellant. The Bench is of the view that the Respondent overlooked the fact that manual screening shows the bonafide of the Appellant. The Bench also advises the Appellant that the maintenance/management of electronic database is a requirement of law and the Appellant is bound to follow the same. The Bench hopes that in future the Appellant will be highly vigilant in adhering to AML laws. The Bench has also observed that the Appellant has made efforts to rectify the non-compliances and is striving to adhere to the Regulations.



Securities and Exchange Commission of Pakistan

6. In view of the foregoing, the Bench, considers it justified to reduce the penalty to Rs. 250,000/-. 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: 04 JUL 2024