



# Securities and Exchange Commission of Pakistan

## BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 44 of 2023

Crescent Star Insurance Limited

...Appellant

Versus

Director/HOD (Adjudication-I), SECP.

...Respondent

Date of hearing:

August 28, 2025

Present:

For the Appellant:

1. Mr. Saadat Ali Saeed, Advocate High Court
2. Mr. Tanveer Ahmed, Resident Director, CSIL

For the Respondent:

1. Mr. Sohail Qadri, HOD/Director, Adjudication-I, SECP
2. Mr. Shafiq -ur- Rehman, Additional Joint Director, Adjudication-I, SECP

## ORDER

1. This Order shall dispose of Appeal No. 44 of 2023 filed by Crescent Star Insurance Limited (the Appellant) against the Order dated March 7, 2023 (the Impugned Order) passed by the Director/HOD, Adjudication Department-I, SECP (the Respondent) under clause xii of the Code of Corporate Governance for Insurers, 2016 (the Code) read with Section 40A of the SECP Act, 1997 (the SECP Act); Regulations 27 and 37 of the Listed Companies (Code of Corporate Governance) Regulations, 2019 (the Regulations); Sections 192, 193, 479 and 512 of the Companies Act, 2017 (the ACT); Rules



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4 & 6 of the Credit & Suretyship (Conduct of Business) Rules, 2018 (the CS Rules) read with Sections 11(l)(b), 29 & 156 of Insurance Ordinance, 2000 (the Ordinance).

2. The brief facts of the case are that it was observed that the Appellant's statutory auditors raised observations in the review report of the Statement of Compliance with the Code for the financial year ended December 31, 2020 (FY 2020), wherein the following violations were identified:
  - i. In violation of then mandatory requirement of clause xii of the Code, the positions of the Appellant's Board of Directors', Chairman and Chief Executive Officer were assumed/held by the same individual, therefore, the Appellant was liable to the penal action under Section 40A of the SECP Act;
  - ii. In violation of the requirement contained under Section 192(1) of the Act, the Chairman of the Board was not appointed from amongst the non-executive directors; therefore, the Appellant was liable to the penal action under Section 193 read with Section 479 of the Act;
  - iii. In violation of Rule 6(1) & (2) of the CS Rules read with Section 46(1)(b) of the Ordinance, the Appellant submitted unaudited, incomplete and delayed Statement of Credit and Suretyship Class of Business for FY 2018 and FY 2020. The Appellant also failed to submit other statements including the Statement of Claims Paid/Outstanding/Rejected under the Credit and Suretyship Class of Business for FY 2018 and FY 2020, therefore, the Appellant was liable to penal action under Section 156 of the Ordinance;
  - iv. In violation of Rules 4(2) & (3) of the CS Rules, the Appellant failed to obtain collateral and aggregate net retained exposure exceeding the amount of equity in FY 2018, therefore, the Appellant was liable to the penal action under Section 156 of the Ordinance.
3. In view thereof, the Respondent issued the show cause notice dated July 13, 2022 (the SCN) to the Appellant. The Appellant responded to the SCN vide its letter dated December 30, 2021, wherein explanations were furnished with respect to each of the above allegations. Hearing in the matter was held on January 19, 2023. The Respondent concluded the SCN proceedings and imposed an aggregate



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penalty of Rs. 2,250,000/- (Rupees two million two hundred fifty thousand only) due to violations mentioned in paragraph 2(I to iv) supra. The alleged violations of Section 29 of the Ordinance pertaining to statutory deposit were dropped due to the pendency of Writ Petition No. 14146/22 regarding statutory deposit and inclusion of the executive director in the audit committee under Regulation 27(1) (liable to be penalized under Regulation 37 of the Regulations) of the Regulations due to non-approval of non-executive directors in terms of Insurance Companies (Sound & Prudent Management) Regulations 2012.

4. The Appellant filed this Appeal *inter alia* on the grounds that the Appellant stated that, while issuing the SCN the Respondent has committed procedural irregularities and was issued prior to the off-site inspection/investigation. The Appellant further stated that Respondent was not authorized to initiate the SCN proceedings merely on the basis of a qualified report of the auditors and failed to apply its independent mind, therefore, the SCN and the Impugned Order may be set aside. The Appellant also submitted that the SCN is bad for misjoinder of laws because violations of the Code are dealt under the SECP Act or the Ordinance whereas, any non-compliance of the Regulations is to be adjudicated under the Act. In view thereof, non-compliance of the Code and the Regulation cannot be adjudicated under one show-cause notice since each law provides independent penal and procedural provisions. The Appellant also argued that the alleged non-compliance falls under the non-mandatory requirement of Regulation 9 of the Regulations, therefore, the Respondent was not authorized to penalize the Appellant.
5. The Appellant stated that an unaudited statement of credit suretyship class of business for FY 2018 under the CS Rules was submitted on direction of the Securities and Exchange Commission of Pakistan (the Commission) issued during adjudication of SCN ID/ENF/Crescent Star/2020/476 dated June 2, 2020, to file the same within a period of 10 days. The Appellant submitted that in order to ensure compliance with the Commission's direction, an un-audited statement was submitted, hence, imposition of penalty due to compliance of an earlier order of the Commission at this later stage is unwarranted and illegal.
6. The Appellant stated it was on the basis of summaries and conjectures that the Respondent rejected the Appellant's plea that the statement of claims paid/rejected under the credit suretyship class of business was not submitted due to the fact that there were no claims under the credit suretyship class



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of business during 2018. The Appellant stated, while rejecting the Appellant's plea, the Respondent failed to rely on any information or document which negated the Appellant's stance.

7. The Appellant stated that it was conveyed to the Respondent that facultative reinsurance was arranged against each policy issued, covering total exposure of the policies, therefore, collateral under Rule 4(2) of the CS Rules was not required because facultative reinsurance duly met the requirement under Rule 4(2) of the CS Rules.
8. The Respondent rebutted the grounds of Appeals and arguments put forth by the Appellant's representative. The Respondent stated that the Impugned Order quite fairly analyzed the Appellant's submissions and the Impugned Order has been passed as per law and after considering the evidence available on the record. The Respondent stated that the Appellant's contention regarding sole reliance on qualified opinion of auditors is not supported by any legal, or otherwise logical basis. The Impugned Order comprehensively and quite judicially analyzed each alleged contravention by way of an independent and thorough analysis made in paragraph 20 of the Impugned Order. The Respondent submitted that the Impugned Order clearly establishes the defaults on part of the Appellant as well as fairly accepts the submissions of the Appellant in certain instances wherein no penalty was imposed. The Respondent submitted that non-compliance of the Appellant with the Code has been rightly penalized under Section 40A of SECP Act 1997. The Respondent stated that paragraph 21 of the Impugned Order clearly identifies the violations and provisions of laws under which the respective penalties have been imposed. Thus, the argument raised by the Appellant regarding misjoinder of laws is not tenable. Moreover, neither the SCN nor the Impugned Order invoked Regulation 9 of the Regulations, therefore, the Appellant's argument regarding non-mandatory provision is misplaced.
9. The Respondent stated that the Appellant's contention that it submitted the statement on credit and suretyship class of business for FY 2018 in compliance of the Commission's direction in the matter of SCN No: ID/Enf/Crescent Star/2020/476 dated June 2, 2020 is a misconceived notion. As a matter of fact, and the law, the SCN dated June 2, 2020 was issued to the Appellant on account of default of Rule 6 of the SC Rules, whereas, Rule 6(2) specifically provides that "Any document to be submitted by an insurer under this rule shall be submitted in the, manner as is applicable on the regulatory returns required to be submitted under Section 46 and Section 51 of the Ordinance". The Respondent apprised that Section 46 of the Ordinance require submission of duly audited documents, however, the



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Appellant submitted unaudited statement. Therefore, it cannot be justified for the Appellant to file its overdue statement for FY 2018 (due date of filing was April 30, 2019) in an unaudited form in the year 2021 as the Appellant had already availed ample time of over 2 years for preparation and having the said statement audited.

10. The Respondent further stated that the Appellant's contention that, as there were no claims paid/outstanding/rejected against 9541 guarantees/bonds/policies issued by it, therefore, no statement under credit suretyship class of business was required to be submitted, is against the requirement of law, as there is no exemption for not filing of the statement of claims paid/outstanding/rejected. Therefore, instead of violating the requirement of law, the Appellant was required to have filed the claim statement indicating a "NIL" report for claims during the period.
11. While responding to the Appellant's stance regarding facultative reinsurance arrangement to meet the requirement of net retained exposure limit and collateral requirement under Rule 4 of the CS Rules, the Respondent stated that the Appellant did not furnish any supporting evidence to substantiate its stance that it has made reinsurance arrangements against each issued policy covering total exposure under the credit suretyship class of business. Therefore, in the absence of such evidence, the Appellant's stance that there is no net retained exposure on individual and aggregate basis, is not credible.
12. The Appellate Bench (the Bench) has heard the parties and perused the record with the able assistance of the parties' representatives. The Bench find no substance and relevance of the Appellant's argument that the SCN was issued prior to inspection/investigation. The Bench has noted that, as per record, the Respondent took cognizance of the matter in view of the qualified report of the auditors and the Appellant was afforded ample opportunity to respond to the allegations contained in the SCN. Therefore, we are of the view that initiation of legal proceedings against the Appellant were not subject to prior inspection or the investigation. The Bench has perused the Impugned Order which suffices to establish independent application of mind by the Respondent in the matter, hence, the Appellant's contention is not sustainable. Moreover, the Appellant's argument regarding misjoinder of laws in the SCN and the Impugned Order, is also misconceived because initiation of legal proceedings under different laws through a single show- cause notice is neither prohibited nor against the established legal precedents. Furthermore, the Appellant's argument that no penalty could be imposed under non-



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mandatory Regulation 9 of the Regulations is not relevant, as no penal action has been taken under the relevant provision, rather penalty has been imposed due to violation of clause xii of the Code. In view thereof, the Bench is not inclined to accept the Appellant's argument regarding imposition of penalty under Regulation 9 of the Regulations.

13. The Bench is of the view that the Appellant's argument regarding filing of an unaudited statement of credit suretyship class of business for FY 2018 under the CS Rules upon the Commission's direction is an effort to shift its obligation. The Bench has noted that it was the Appellant's responsibility to ensure timely filing of the audited statement of credit suretyship class of business for FY 2018 after complying with the applicable requirements of Rule 6 of the CS Rules and Sections 46 and 51 of the Ordinance, however, in violation of the stated provisions, the Appellant filed an unaudited statement for FY 2018 in the year 2021 (after a delay of almost two years, whereas, due date of filing was April 30, 2019). In view thereof, the Appellant's stance that it filed an unaudited statement of credit suretyship class of business for FY 2018 upon the Commission's direction is not tenable.
14. With regard to the Appellant's argument that it had not filed the requisite statement regarding claims paid/outstanding/rejected under the credit suretyship class of business during the period because no such claims were existed is not acceptable and is rejected. In our view, though quite unlikely that during the period the Appellant had not paid/outstanding/rejected even a single claim, non-existence of such claims does not exempt the Appellant to file the required statement with a "NIL" status.
15. The Bench has perused the record to verify the Appellant's claim that it had a facultative reinsurance arrangement to meet the requirement of the Rule 4(2) of the CS Rules to cover net retained exposure under the credit suretyship class of business, however, to substitute the said claim no evidence was placed on record either during the SCN proceedings or before the Bench. In view thereof, the Appellant has been rightly found non-compliant with the requirement under Rule 4(2) of the CS Rules.
16. The Bench is of the view that violations are established in the Impugned Order and the Appellant had failed to demonstrate justification of such violations. The Bench, after careful consideration of the record, submissions of the parties, and the findings contained in the Impugned Order, has concluded the appellate proceedings by upholding the merits and substantive findings of the Impugned Order. However, the Bench is of the considered view that the quantum of penalties imposed therein is not




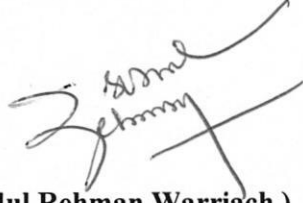
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proportionate to the nature and gravity of the respective violations. Accordingly, in the interest of justice and fairness, the Bench has decided to reduce the penalties as follows:

- i. the penalty imposed for violation of clause (xii) of the Code is reduced from Rs. 400,000 to Rs. 300,000;
- ii. the penalty imposed for violation of Section 192 of the Act is reduced from Rs. 250,000 to Rs. 200,000;
- iii. the penalty imposed for violation of Rule 6 of the CS Rules is reduced from Rs. 800,000 to Rs. 500,000; and
- iv. the penalty imposed for violation of Rule 4 of the CS Rules is reduced from Rs. 800,000 to Rs. 500,000.

17. In view of the foregoing, the aggregate amount of penalty stands reduced from Rs. 2,250,000 to Rs. 1,500,000. Accordingly, the Appeal is disposed of without any order as to cost.

  
(Zeeshan Rehman Khattak)  
Commissioner

  
( Abdul Rehman Warriach )  
Commissioner

Announced on:

16 OCT 2025