



# Securities and Exchange Commission of Pakistan

## BEFORE APPELLATE BENCH

In the matter of

Appeal No. 51 of 2019

M/s. Standard Capital Securities (Pvt.) Limited

Appellant

Versus

The Commissioner, (SMD), SECP, Islamabad.

Respondent

Date of hearing:

September 3, 2020

Present:

For Appellant:

1. Mr. Naushad H. Chamdia, CEO
2. Mr. Waqar Ahsan
3. Mr. Khurram Jah (ACA)

For Respondent:

1. Mr. Osman Syed, Joint Director (Adjudication-I), SECP
2. Mr. Muhammad Akram, Assistant Director (Adjudication-I), SECP

## ORDER

1. This Order shall dispose of Appeal No. 51 of 2019 filed by M/s. Standard Capital Securities (Pvt.) Limited (the Appellant) against the Order dated June 10, 2019 (the Impugned Order) passed by the Commissioner, SMD (the Respondent) under Section 40A of the Securities and Exchange Commission of Pakistan Act, 1997 read with Section 150 the Securities Act, 2015 (the Act).
2. The brief facts of the case are that the Appellant is a securities broker and licensed by the Securities and Exchange Commission of Pakistan (the Commission). The Commission, in exercise of the powers conferred under Section 137 of the Act, conducted follow-up review (the Review) of the Appellant to assess compliance status of the requirements contained in the Securities and



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Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 (the Regulations). The Review revealed following non-compliances:

- i. The Appellant had not updated AML/CFT policy after promulgation of the Regulations.
  - ii. The Appellant had neither provided audit reports during Review nor submitted before the Respondent, which reflected that independent audit function was not existent.
  - iii. The Appellant had no mechanism of Enhanced Due Diligence (EDD) of high-risk clients.
  - iv. The Appellant had no mechanism of ongoing monitoring of its clients.
  - v. The Appellant had not developed compliance function with clear lines of reporting and job descriptions.
  - vi. The Appellant had not developed automatic alert generation system to highlight ML/TF transactions.
  - vii. The Appellant had not provided AML/CFT annual training program to employee.
3. In view of the above violations, a show-cause notice dated May 3, 2019 (the SCN) was issued to the Appellant. The Appellant vide its letter dated May 23, 2019 submitted reply to the SCN. Hearing in the matter was held on May 24, 2019, which was attended by the Appellant's representatives. The Respondent had concluded the SCN proceedings and imposed a penalty of Rs. 300,000/- (Rupees three hundred thousand) on the Appellant.
4. The Appellant *inter alia* filed this Appeal on the grounds that the proceedings initiated by the Respondent are bad in law and submissions of the Appellant were not considered. The Appellant further stated that reasonable hearing opportunity was not provided to it, therefore, Impugned Order is liable to be *set-aside*.
5. The Respondent stated that the Impugned Order is a speaking order, which covers all factual and legal aspects of the matter. The Respondent further stated that the Impugned Order had clearly explained that how the Appellant was non-complaint with the requirements of the Regulations. The Respondent stated that on May 24, 2019 hearing opportunity was provided to the Appellant, which was duly attended by its representatives namely, Mr. Naushad H. Chamdia (CEO), Mr. Waqar Ahsan (Director Compliance) and Mr. Khurram Jah.



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6. The Appellate Bench (the Bench) has heard the parties and perused the record. The Appellant's representatives and the Respondent's representatives reiterated their grounds of appeal and rebuttal thereof.
7. The Bench is of the view that the Appellant has failed to highlight any discrepancy or anomaly in the Impugned Order because at the time of Review and even during the SCN proceedings, the Appellant was found non-compliant and violations of the Regulations were observed. The Bench rejects the Appellant's plea that reasonable hearing opportunity was not provided because first hearing of the SCN was scheduled for May 10, 2019, however, it was adjourned on the Appellant's request. The Bench has observed that Respondent had provided another hearing opportunity to the Appellant on May 24, 2019, which was attended by CEO, director Compliance and an advisor, who were heard at length, therefore, we are not inclined to accept that reasonable hearing opportunity was not provided to the Appellant.
8. The Bench has also carefully gone through the memorandum of the Appeal wherein the Appellant has stated that requirements of the Regulations were new and adequate time was not provided to comply with the requirements. The Bench has noted that the Appellant has taken a stance that the Regulations were promulgated in June 2018 and guidelines to understand the Regulations were issued on September 11, 2018, therefore, prior to issuance of guidelines, initiation of Review to assess compliance of the Regulations was not appropriate.
9. The Bench is not inclined to accept the Appellant's assertion that reasonable time was not provided to understand and comply with the requirements of the Regulations because the requirements contained under the Regulations were not new, rather these were introduced in 2012 by the Karachi Stock Exchange with the approval of the Commission, through Regulation 4.18 of the Rule Book (current Regulation 4.17). The Bench is of the view that these requirements were made mandatory for the securities brokers to formulate and implement an effective KYC and CDD policy in accordance with the KYC and CDD guidelines issued by the Karachi Stock Exchange in 2012. The Bench has compared the requirements of the regulatory framework of 2012 with the Regulations and AML Guidelines 2018, and observes that they do not reflect any material difference. Therefore, the Bench has no doubt to hold that the Regulations had not introduced new regulatory requirements, rather, prior regulatory requirements had been



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streamlined. The Bench is of the view that issuance of guidelines was not a pre-condition to implement the Regulations, therefore, we have no doubt that after promulgation of the Regulations, the Appellant was required to comply with the applicable requirements. The Bench is of the view that, the Regulations should have been followed from the date of promulgation.

10. The Bench has also perused the record, which revealed that the Review was ordered by the Commission on October 29, 2018, whereas, the Appellant was asked to provide necessary documents vide letter dated February 22, 2019, therefore, it is evident that even six months after the issuance of the guidelines, the Appellant remained non-compliant. The Bench has no doubt that the Appellant was non-compliant at the time of Review, therefore, any subsequent compliance, would not exonerate it from the consequences of violations committed in implementation of the Regulations.

11. In view of the forgoing, the Bench find no reason to interfere with the merits of the Impugned Order, therefore, we hereby dismiss this Appeal, without any order as to cost.

(Farrukh Hamid Sabzwari)  
Commissioner (SCD-PRDD)

(Shaukat Hussain)  
Commissioner (INS,C&CD)

Announced on: **23 DEC 2020**