



# Securities and Exchange Commission of Pakistan

## BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 52 of 2020

Fawad Yousuf Securities (Pvt.) Limited

Appellant

Versus

Executive Director, Adjudication Department-I SECP, Islamabad

Respondent

Date of hearing:

January 23, 2025

Present:

For the Appellant:

1. Mr. Fawad Yusuf, CEO
2. Mr. Shafqat Ali, Authorized representative

For the Respondent:

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

## ORDER

1. This Order shall dispose of Appeal No. 52 of 2020 filed by Fawad Yousuf Securities (Pvt.) Limited (the Appellant) against the Order dated April 21, 2020 (Impugned Order) passed by the Executive Director, Adjudication Department-I, SECP (the Respondent).
2. The brief facts of the case are that in order to assess the compliance of the Appellant with the Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 (the AML Regulations) an onsite inspection was conducted vide order dated November 1, 2020 to review a period of three months (August 1, 2019 to



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October 31, 2019). The inspection observed that the Appellant was not compliant with the requirements of the AML Regulations. certain no, therefore, the show-cause notice dated February 7, 2020 (the SCN) was issued to the Appellant *inter alia* due to the following violations;

- a. In violation of Regulation 6(4) read with Annexure I of the AML Regulations customers' accounts were opened without verification of identity documents of 13 customers from NADRA;
  - b. In violation of Regulation 6(3)(a) of the AML Regulations the Appellant failed to verify the identity of the beneficial owners or joint account holders in seven instances;
  - c. In violation of Regulation 13(1) of the AML Regulations, the Appellant failed to carry out an ongoing monitoring in the case of an account of a retired individual. The source of income cannot be established through a copy of his available bank statement;
  - d. In violation of Regulation 6(4) of the AML Regulations, the Appellant failed to obtain attested copies of the service card, certificate, or letter on letterhead of the employer at the time of opening of accounts of two individuals;
  - e. In violation of Regulation 9(4)(b) of the AML Regulations in the case of a high-risk female client (housewife), the Appellant did not establish the source of wealth/funds or beneficial ownership of funds including its assessment to this effect, which were required to be undertaken in respect of high-risk clients as part of enhanced due diligence (EDD).
  - f. In violation of Regulation 6(7) of the AML Regulations, the board resolution of a corporate client does not specifically authorize the authorized person to open an account of the company.
3. The Appellant replied to the SCN vide letter dated February 25, 2020, whereas, a hearing in the matter was held on March 13, 2020. The Respondent concluded the SCN proceedings and imposed a penalty of Rs. 650,000/- (Rupees six hundred and fifty thousand only) on the Appellant.
4. The Appellant filed this Appeal *inter alia* on the grounds that in reply to the SCN, the Appellant apprised the Respondent about the rectification of all non-compliances highlighted during the



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inspection. The Appellant stated that eleven non-compliances of the AML Regulations were alleged in the SCN, however, after hearing the matter, the Respondent absolved the Appellant from five of the alleged violations. The Appellant stated that at the time of inspection NADRA Verisys facility was not available and the Securities and Exchange Commission of Pakistan vide a letter dated March 29, 2020 informed that NADRA has now provided the Verisys facility to the securities broker, therefore, a penalty on this count is not justified. The Appellant argued that it has a mechanism of customer due diligence (CDD) to identify the customers' beneficial owners or their joint-holders, board of directors and nominees and stated that during the inspection, without providing the details of seven instances whereby, allegedly CCD of customers beneficial owners was not carried out, the inspection merely highlighted the violation. The Appellant stated that the inspection team was informed vide letter dated November 13, 2019 that it has updated procedures to identify beneficial owners of the clients. The Appellant stated that neither in the inspection report nor in the SCN, particulars of the alleged instance of its failure to carry out ongoing monitoring of a retired individual to establish his source of income were provided. The Appellant further argued that although Regulation 6(4) of the AML Regulations does not make it mandatory, the Appellant obtained service records of salaried individual customers, therefor, violation of Regulation 6(4) may not be attributed to the Appellant.

5. The Appellant further argued that AML Regulations were new at the time of inspection, therefore, deficiencies found in accounts opened before the promulgation of the AML Regulations are being rectified as and when observed during continuous CDD. The Appellant stated that EDD is an ongoing process in the case of high-risk customers, therefore, as per its assessment while taking EDD measures, gift deeds were obtained from a housewife customer to establish the provision of funds from her husband. The Appellant submitted that the board resolution of the corporate client contains the specimen signatures of authorized signatories to open and operate the account, therefore, one may not infer that the board resolution does not contain the information about the authorized person. Lastly, the Appellant prayed to the Bench to take a lenient view to the quantum of penalty.



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6. The Respondent rebutted the grounds of appeal and stated that during the review period, the Appellant was found non-compliant to the requirements of AML Regulations, therefore, any subsequent compliance does not exonerate the Appellant from the penal consequences. The Respondent stated that as required under Regulation 6(4) read with Annexure I of the AML Regulations, the Appellant failed to verify the customers' identification documents through the NADRA Verisys facility. The Respondent further stated that during the inspection it came on the record that the Appellant had failed to verify the identity of the beneficial owners or joint account holders in seven instances and, therefore, was found non-compliant with the requirements of Regulation 6(3)(a) of the AML Regulations. The Respondent stated that the Appellant also failed to carry out ongoing monitoring of a retired individual's account to establish his source of funds, therefore, the Appellant had violated the requirement of Regulation 13(1) of the AML Regulations.
7. The Respondent stated that the inspection revealed that in two instances of salaried individuals, the Appellant had not obtained attested copies of the service card, certificate, or letter on letterhead of the employer, therefore, violated the requirements of Regulation 6(4) of the AML Regulations. The Respondent further argued that the Appellant obtained the required documents after the inspection, which does not does not exonerate it from the breach already incurred. The Respondent stated that in violation of Regulation 9(4)(b) of the AML Regulations, the Appellant failed to establish the source of wealth/funds or beneficial ownership of funds of a high-risk female client (housewife). The Respondent further argued that at the time of inspection it was non-compliant, subsequently the Appellant obtained three gift deeds in respect of the transfer of funds from her husband, The Respondent while rebutting the grounds of appeal stated that as required under Regulation 6(7) of the AML Regulations, the Appellant has failed to submit a board resolution of a corporate client designating a specific person to open and operate the corporate customer's account. Lastly, the Respondent prayed to dismiss the appeal.
8. The Bench has heard the parties and pursued the record with the able assistance of the parties' representatives. The Appellant's and Respondent's representatives reiterated the grounds and appeal and rebuttal stated hereinabove. The Bench has noted that in the SCN eleven violations were alleged, however, after hearing the Appellant's satisfactory response and evidence, the Respondent



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decided not to proceed on five counts. In the circumstances, the Bench is of the view that except NADRA Verisys violation, the Respondent took action for violations whereby the Appellant failed to produce a plausible response or evidence. In view thereof, the Bench endorses the Appellant's stance that at the time of inspection, NADRA Verisys facility was not available and it was allowed by NADRA subsequently, therefore, the Appellant cannot be accused of the said violation. The Bench has noted that for the remaining five violations, the Appellant has failed to bring on record any evidence that it was compliant with the requirements of the AML Regulations at the time of inspection. The Bench has noted that after the inspection, the Appellant has rectified the violations by obtaining the requisite documents and information from its customers, therefore, we concur with the Respondent's representative's argument that subsequent compliance does not exonerate the Appellant from the penal consequences of established violations of the AML Regulations. However, as the Appellant has subsequently complied with the requirements of the AML Regulations and no further violation was observed, therefore, the Bench is inclined to take a lenient view to the quantum of penalty imposed on the Appellant. Furthermore, the Bench appreciates the conduct of the Appellant's representatives whereby they have admitted the shortcomings and requested a lenient view.

9. In view of the foregoing, we hereby reduce the penalty amount to 200,000/- (Two hundred Thousand rupees). Accordingly, the Appeal is disposed of without any order as to cost.

  
(Zeeshan Rehman Khattak)  
Commissioner

  
( Abdul Rehman Warriach )  
Commissioner

Announced on:

**24 FEB 2025**