

# Securities and Exchange Commission of Pakistan

## BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 60 of 2017

M/s. AKD Analytics (Private) Limited

...Appellant

Versus

Commissioner (Securities Market Division)  
Securities and Exchange Commission of Pakistan

...Respondent

Date of Hearing: 19/12/19

### Present:

#### For the Appellant

- i. Mr. Intezar Ahmed, Company Secretary, AKD Analytics Limited
- ii. Mr. Asghar Ali Anjum, Coordinator, AKD Analytics Limited

#### For the Respondent:

- i. Mr. Osman Syed, Joint Director (Adjudication-1)
- ii. Mr. Sabeel Ahmed, Assistant Director (Securities Market Division)
- iii. Ms. Mehwish Naveed, Management Executive (Adjudication-III)

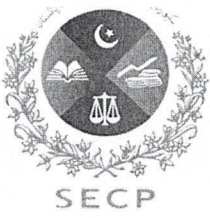
### ORDER

1. This Order is passed in the matter of Appeal No. 60 of 2017 filed under section 33 of the Securities and Exchange Commission of Pakistan Commission Act, 1997 (SECP Act) against the Order dated 30/05/17 (the Impugned Order) passed by the Commissioner, Securities Market Division (the Respondent).

Appellate Bench

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2. The brief facts of the case are as follows:

- a) Review of the Financial Reporting System (the FRS) data revealed that AKD Analytics (Private) Limited (the Appellant) had not filed quarterly financial return through the online FRS for quarter ended 30/06/16, 30/09/16 and 31/12/16 in contravention of Securities and Exchange Commission of Pakistan's Circular No.4 of 2012 dated 16/04/13 (the Circular). This was so despite the fact that the Securities and Exchange Commission of Pakistan (the Commission) arranged awareness and training sessions for the Trading Rights Entitlement Certificate (the TREC) holders on FRS in Islamabad, Lahore and Karachi.
- b) The Appellant had not sent details of all its bank accounts to the Head of Department, Surveillance, Supervision and Enforcement Department of the Securities Market Division of the Commission (the HOD-SSED) as required through Pakistan Stock Exchange (the PSX) notice dated 08/02/17 and despite being sent a reminder letter by the Commission on 17/03/17.
- c) The Appellant had not submitted hard copy of its annual accounts for the year ended 30/06/16 to the HOD-SSED as required through PSX notices dated 08/02/17 and 22/02/17 and despite being sent a reminder letter by the Commission on 16/03/17.
- d) The Appellant had not submitted a hard copy of its half yearly accounts for the period ended 31/12/16 to the HOD-SSED as required through PSX notice dated 08/02/17 and despite being sent a reminder letter by the Commission on 17/03/17.

3. A Show Cause Notice dated 20/03/17 (the SCN) was issued to the Appellant under section 150(1) and 150(2) of the Securities Act, 2015 (the Securities Act). The Respondent was asked to file a written reply to the SCN. Hearing in the matter was held on 04/05/17. On the given date, Mr. Imran Afzal, CFO/Company Secretary and Mr. Asghar Ali, Corporate Manager of the Appellant attended the hearing on behalf of the Appellant and made their submissions.

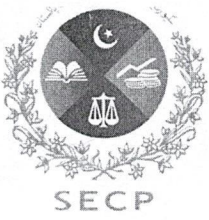
4. The Respondent, dissatisfied with the response of the Appellant, held that the Appellant had not filed (i) the quarterly financial data through FRS, (ii) bank account details and (iii) half-yearly and annual accounts and the Appellant and, therefore, had failed to discharge its regulatory obligations. The Respondent in exercise of the powers under section 150 of the Securities Act, imposed a penalty of Rs 400,000/- on the Appellant. The Appellant was directed by the Respondent to file all overdue financial returns through FRS and bank account details along with a hard copy of its annual accounts



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and half-yearly accounts for the period ended 30/06/16 and 31/12/16 within 30 days of the Impugned Order. The Appellant was further directed by the Respondent to ensure strict compliance with the regulatory framework in letter and spirit, in future.

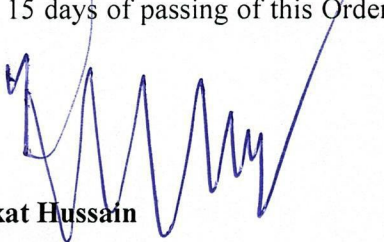
5. The Appellant preferred the instant appeal on the grounds that the Respondent failed to take into account the fact that the Appellant was not required to file quarterly financial data through FRS and submit accounts, since the registration of the Appellant as a securities broker, had expired on 26/08/16. The Appellant argued that they were neither eligible nor had applied for renewal of registration and were not carrying out any regulated securities activities as defined in section 63 of the Securities Act, therefore, provisions of section 63 of the Securities Act were not applicable on the Appellant.
6. The Respondent rebutted the arguments of the Appellant on the grounds that the Commission vide Circular directed all TREC holder/Brokers to submit their financial information through online FRS. Furthermore, the Respondent argued that the Appellant was always deemed/licensed under section 177(3) and 178(2)(e) of the Securities Act and filing of quarterly financial data through FRS and filing of half-yearly and annual accounts with the HOD-SSED is not linked with the renewal of registration. The Respondents contended that the Appellant, therefore, was required to comply with the requirements of the aforementioned Circular.
7. We have heard the parties i.e. the Appellant and the Respondent. We do not concur with the Respondent that renewal of registration of the Appellant had nothing to do with the regulatory requirements of filing of quarterly and half yearly returns. Section 177 of the Securities Act provides, “(3) A person who, immediately prior to the commencement of Part V of this Act, is registered as a broker under section 5A of the Securities and Exchange Ordinance, 1969 (XVII of 1969), shall be deemed to be licensed under this Act as a securities broker till the time his existing certificate of registration remains valid and shall thereupon be required to obtain a licence under this Act and such person shall also be allowed to effect transactions in futures contracts until such time as it may be required to obtain a separate licence as a futures broker.” In the instant case, the Appellant was not a deemed license holder at the time of issuance of SCN on 20/03/17 as their license had expired on 26/08/16 nor had they applied for renewal of license. We are of the view that the Appellant had to meet the regulatory requirements of filing the quarterly financial return through the online FRS for

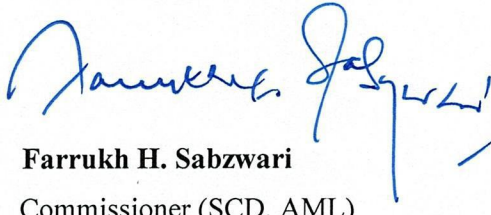


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the quarter ended 30/06/16 and hard copy of annual returns for the period they held a valid license i.e. until 30/06/16, however, after the expiry of their license they were not under any obligation to file details of their bank accounts and returns for the period 30/09/16 and half yearly accounts for the period 31/12/16. We have reviewed the documents and observed that the Appellant has filed the returns for the period 30/06/16 on 05/12/19 through electronic filing but still no hard copy has been filed to date.

8. In view of the foregoing, while taking into account that the Appellant has submitted returns for the year ended 30/06/16, we take a lenient view and reduce the penalty imposed on the Appellant from Rs 400,000 to Rs 200,000 with the direction that the Appellant must also file a hard copy of the same within 15 days of passing of this Order. The Appeal is disposed of accordingly with no order as to cost.

  
**Shaukat Hussain**  
Commissioner (CCD, Insurance)

  
**Farrukh H. Sabzwari**  
Commissioner (SCD, AML)

Announced on: **28 FEB 2020**