

# Securities and Exchange Commission of Pakistan

## BEFORE APPELLATE BENCH NO. 1

In the matter of

### Appeal No. 64 of 2017

SMAC Investments (Smc-Pvt.) Limited ...Appellant

Versus

- i. The Commissioner (Securities Market Division),  
Securities and Exchange Commission of Pakistan, Islamabad
- ii. Pakistan Stock Exchange Limited, Stock Exchange Building, Stock Exchange  
Road, Karachi ...Respondents

**Date of hearing:** 20/04/18

### **Present:**

For Appellant:

- i. Mr. Awab Chohan, CEO M/s SMAC Investment (Smc-Pvt.) Limited
- ii. Barrister Dr. Jawaid Afzal

For Respondent No.1:

- i. Mr. Asif Khan, Deputy Director (SMD)
- ii. Mr. Salman Arshad, Deputy Director (SMD)

For Respondent No.2:

- i. Nemo

### **ORDER**

1. This Order shall dispose of Appeal No.64 of 2017, filed against the Order dated 26/05/17 (the Impugned Order) passed by the Commissioner SMD-SECP (the Respondent No.1) under the Securities Brokers (Licensing and Operations) Regulations, 2016 (the Regulations) read with the Securities Act, 2015 (the Act) whereby, M/s SMAC Investments (Smc-Pvt.) Limited (the Appellant) application for renewal of licence/registration as broker (the Application) was refused.
2. The proceedings against the Appellant were initiated through a Notice dated March 20, 2017 (the Notice) issued by Mr. Faisal Nawaz, Joint Director (the JD). Thereafter, the JD also issued a hearing notice dated April 7, 2017 in furtherance to the Notice and advised the Appellant to attend hearing before the Respondent No.1 on April 12, 2017.



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3. The Appellate Bench (the Bench) has noted an anomaly during the proceedings of the case conducted by the Respondent No.1. Regulation no. 10 of the Regulations empower the Securities and Exchange Commission of Pakistan (the Commission) to grant or refuse the licence to a broker. The Commission has delegated its powers to the Respondent No.1 vide S.R.O.123 (I)/2017 dated February 27, 2017 (the SRO). As Per the SRO, the Respondent No.1 was the only competent person to issue a show-cause notice and to conclude the proceedings through formal adjudication.
4. The Respondent No.1 has claimed that the Notice is not a show cause notice, however, the Bench has perused the contents of the Notice and decided to treat it as a show cause notice, a condition precedent to passing the Impugned Order. Therefore, instead of the JD it should have been issued by Respondent No.1, who had the delegated jurisdiction and authority of the Commission to adjudicate the matter. The JD was not competent to issue Notice or show cause notice therefore, the Bench is of the view that issuance of Notice by the JD had made the whole proceedings and the Impugned Order void *ab initio*.
5. Therefore, without going into the merits of the case we hereby set aside the Impugned Order and direct the Respondent No.1 to provide another opportunity to the Appellant with a reasonable time (not more than three months) to remove the non-compliances hindering licensing/registration as broker. During the course of hearing, the Appellant's representative has requested to appoint a focal person to address the licensing issues of the brokers therefore, as per information provided by the Respondent No.1's representatives. In this regard, the Appellant may contact the following officer, on given contact details for resolution of queries;


Mr. Muhammad Asif Jalal Bhatti (Executive Director)

Email: [Asif.jalal@secp.gov.pk](mailto:Asif.jalal@secp.gov.pk)

Phone: 051- 9100472

6. The Appeal is disposed of accordingly, without any order as to cost.

  
(Shaukat Hussain)  
Commissioner (CCD-CLD)

  
(Tahir Mahmood)  
Commissioner (CSD-CLD)

Announced on: **26 APR 2018**