



# Securities and Exchange Commission of Pakistan

## BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 71 of 2021

Sakarwala Capital Securities (Private) Limited

...Appellant

versus

Executive Director, Adjudication Department-I, SECP

...Respondent

Date of hearing:

August 28, 2025

### Present:

For the Appellants:

1. Mr. Ghulam Mujtaba Sakarwala (Chief Executive Officer)
2. Mr. Ghulam Murtaza Sakarwala (Compliance Officer)
3. Mr. Shafqat Ali (Consultant)

For the Respondent:

1. Mr. Sohail Qadri, Director, Adjudication Department -I, Adjudication Division, SECP
2. Mr. Muhammad Faisal, Deputy Director, Adjudication Department-I, Adjudication Division, SECP

## ORDER

1. This Order shall dispose of Appeal No. 71 of 2021 filed by Sakarwala Capital (Private) Limited (the "Appellant") against the Order dated March 22, 2021 (the "Impugned Order") passed by the Executive Director, Adjudication-I Department, Adjudication Division, SECP (the "Respondent") under section 40A of the Securities and Exchange Commission of Pakistan Act, 1997 (the "SECP Act").



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2. The brief facts of the case are that the Appellant is a Trading Rights Entitlement Certificate ("TREC") holder of the Pakistan Stock Exchange Limited and licensed as a securities broker Securities and Exchange Commission of Pakistan (the "Commission").
3. An Inspection (the "Inspection") was carried out by the Joint Inspection Team (the "JIT") covering a period of three months from April 01, 2020 to June 30, 2020 to ascertain its compliance with the Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 (the "AML Regulations"). The Inspection revealed violation of Regulations 4(a), 9(4), 13(1), 13(7) 18(c) of the AML Regulations and SRO 55(1)/2020 dated January 28, 2020. In view of the said violations, the Respondent issued a Show-Cause Notice dated January 29, 2021 (the "SCN") to the Appellant. The Appellant submitted a written reply dated February 23, 2021 and hearing in the matter was held on March 18, 2021. The Respondent not being satisfied with the stance taken by the Appellant, concluded that there are contraventions of Regulations 4(a), 9(4)(c), 13(1), 13(7) and 18(c) along with clause (c) of SRO 55(1)/2020 dated January 28, 2020 and imposed a penalty of Rs. 260,000/- on the Appellant.
4. The Appellant has preferred this Appeal, *inter alia*, on the grounds that the Impugned Order was passed hastily, without proper consideration of facts or law, and is largely a reproduction of the SCN. The Appellant submitted that the Respondent failed to engage with the Appellant's explanations and provided no reasoning for rejecting them, thereby acting mechanically. The Appellant contends that the AML Regulations are *ultra vires* the SECP Act and the Anti-Money Laundering Act, 2010 (the "AML Act"), as the Commission lacks jurisdiction to promulgate such Regulations. Section 40 of the SECP Act restricts regulation-making powers to functions under Section 20(4) of the SECP Act, which does not cover money laundering. Thus, the SCN and the Impugned Order are without jurisdiction. It was further argued that the AML Regulations were improperly framed on the recommendation of the Financial Monitoring Unit ("FMU"), which itself has no authority to delegate or recommend regulation-making powers to the Commission and both FMU and the Commission acted beyond their mandate.
5. It was contended by the Appellant that the Respondent wrongly alleged non-compliance with Regulation 13(7) of the AML Regulations and SRO 55(1)/2020 regarding screening of beneficial



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owners of corporate clients with respect to proscribed persons/entities against UNSC and NACTA lists. The Appellant clarifies that screening was being carried out through its back-office system, but reporting discrepancies occurred due to a software, which was taken up with the vendor. The Respondent could have verified this instead of concluding non-compliance.

6. The Appellant argued that the Impugned Order alleged that the Appellant's AML/CFT Policy was deficient and outdated, contrary to Regulations 4(a) and 18(c) of the AML Regulations. The Appellant stated that its AML/CFT Policy is an internal framework regularly updated since 2018 in line with SECP Guidelines and amendments, with the latest approved version in December, 2020. Thus, the Compliance Officer acted in compliance with the law.
7. With regard to Enhanced Due Diligence ("EDD"), the Respondent found deficiencies in on-going monitoring and EDD of a high-risk client, citing a tax return dated August 10, 2020 arranged after inspection. The Appellant submitted that it had arranged all other documents such as bank statements, business letterhead and updated KYC/CDD before inspection, and reliance on a single document does not establish overall non-compliance with Regulations 9(4)(c) and 13(1) of the AML Regulations.
8. In response to the submissions of the Appellant, the Respondent, *inter alia*, contended that the Impugned Order has been passed strictly in accordance with the applicable legal framework, after due compliance with procedural and substantive requirements. It was asserted that the Impugned Order is legally sound, well-reasoned, and supported by the facts disclosed during the course of proceedings. The Respondent asserts that the Impugned Order is a speaking order, issued after due consideration of the Appellant's submissions, case facts, record, and relevant AML Regulations.
9. The Respondent maintains that the Commission has lawful authority under section 20(4)(w) of the SECP Act to promulgate the AML Regulations and under section 40(A) of the SECP Act to impose penalties for contraventions. Therefore, the Respondent has rightfully imposed penalty on the Appellant for violations of the AML Regulations.
10. The Respondent refuted the Appellant's claim and submitted that the Appellant failed to provide the report of screening conducted for beneficial owners of the corporate clients with respect to



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proscribed persons/entities against UNSC and NACTA lists, due to discrepancies in their systems. Further, the Respondent explained that the Appellant failed to provide evidence of list containing name(s) of the ultimate beneficial owners of the corporate clients and subsequent procedures performed to identify such beneficial owners during the Inspection. Subsequent to the Inspection, the Appellant provided monthly periodic screening of customers/ nominees/ joint account and authorized persons. However, the same was not provided for BoDs/ Trustees and Office bearers. Accordingly, the Respondent contended that the observations remain unresolved and the Appellant was found in contravention of Regulation 13(7) of the AML Regulations and clause (c) of SRO 55(1)/2020 dated January 28, 2020.

11. With regard to deficiencies in AML/CFT Policy, the Respondent contended that the Appellant only amended its AML/CFT Policy in December, 2020, well after the Inspection and over two years after the promulgation of AML Regulations in June, 2018. The Respondent argued that such delay constitutes non-compliance of Regulation 4(a) of the AML Regulations. Furthermore, the Respondent contended that the Compliance Officer failed to adequately monitor, review and update the said Policy in a timely manner, thereby acting in contravention of Regulation 18(c) of the AML Regulations.
12. It was contended by the Respondent that with regard to the deficiencies in on-going monitoring of one high-risk client of the Appellant, the evidence submitted showed that the tax return of a said client was dated August 10, 2020, which revealed that EDD of the customer was performed after the commencement of Inspection, whereas the client's account was opened on January 21, 2016. This indicates negligence in performing timely EDD, and therefore, the Appellant was correctly found in contravention of Regulations 9(4)(c) and 13(1) of the AML Regulations.
13. The Appellate Bench (the "Bench") has considered the arguments advanced by both parties and examined the record placed before it. The Bench notes that the Commission possesses statutory authority under the SECP Act to issue AML Regulations, 2018 and enforce compliance therewith. The Appellant's argument that the AML Regulations are *ultra vires* the parent statute is not sustainable in view of the clear wording of section 20(4)(w) read with section 40A of the SECP Act. Section 20(4)(w) of the SECP Act explicitly empowers the Commission "to control and



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*minimize misconduct, market abuse and financial crime in the financial services market and other sectors regulated by the Commission.*” Money laundering is globally recognized as a core form of financial crime, intrinsically linked with misconduct and market abuse in the financial sector.

14. The Bench further observes that the AML Act explicitly designates the Commission as an AML/CFT regulatory authority and section 6A of the AML Act expressly provides that the regulatory authorities specified in Schedule IV are entrusted with the responsibility to perform all such functions and exercise such powers as are necessary for ensuring compliance by reporting entities regulated by them with the requirements of AML Act. Further, Schedule-IV [Section 6A(1)] of the AML Act specifically lists the Commission as follows:

*“(ii) Securities and Exchange Commission of Pakistan (SECP) for any reporting entity licensed or regulated by SECP under any law administered by SECP.”*

15. Accordingly, the Commission’s issuance of the AML Regulations constitutes a direct fulfillment of its statutory mandate under the AML Act, as well as section 20(4)(w) of the SECP Act. When these provisions are read in conjunction with section 40A of the SECP Act, which expressly empowers the Commission to impose penalties for non-compliance, the Commission’s legal authority to promulgate, implement, and enforce the AML Regulations stands firmly established and is beyond cavil. The Bench, therefore, rejects the Appellant’s challenge to the validity of the AML Regulations as unsustainable both in law and in fact.

16. The Bench further observes that the record demonstrates due consideration by the Respondent of the material placed on record, the submissions advanced by the Appellant, and the applicable legal framework. Although the Appellant has alleged that the Impugned Order constitutes a mere reiteration of the SCN, the Bench is satisfied that cogent reasons have been duly recorded therein. Accordingly, the Impugned Order meets the legal requirement of a speaking order.

17. The Bench finds that the Appellant has not denied the existence of regulatory gaps with regard to screening for beneficial owners of the corporate clients, deficiencies in AML/CFT Policy and performance of EDD at the time of Inspection. The Appellant demonstrated a genuine intent to



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comply once the issues were brought to its attention. The deficiency appears procedural rather than deliberate avoidance which suggests negligence but not complete failure of due diligence.

18. In light of the above, the Bench holds that while the Appellant did commit certain lapses under the AML Regulations, the same were without evidence of *mala fide intent* or wilful disregard of law. Accordingly, the penalty imposed by the Respondent is found to be disproportionate to the nature of contraventions. The Impugned Order is upheld to the extent of establishing contraventions of the AML Regulations by the Appellant. However, in consideration of the mitigating circumstances, the monetary penalty is hereby reduced from Rs. 260,000/- to Rs. 100,000/-.

19. Consequently, the Appeal is disposed of, with no order as to costs.

  
(Abdul Rehman Warraich)  
Commissioner

  
(Zeeshan Rehman Khattak)  
Commissioner

Announced on:

17 SEP 2025