



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 75 of 2020

First Choice Securities Limited (Company)

...Appellant

Versus

The Executive Director, Adjudication Department-I, SECP, Islamabad.

...Respondent

Date of hearing:

April 30, 2025

Present:

For the Appellant:

1. Mr. Muhammad Naveed, CEO (through Zoom)
2. Mr. Shafqat Ali, Consultant (through Zoom)

For the Respondent:

1. Mr. Mubasher Saeed Saddozai, Executive Director, Adjudication Division, SECP.
2. Mr. Sohail Qadri, HOD/Director, Adjudication Department-I, SECP.
3. Mr. Naveed Iqbal, Deputy Director, Adjudication Department-I, SECP.

ORDER

1. This order shall dispose of Appeal No. 75 of 2020 filed by First Choice Securities Limited (the Appellant) against the Order dated July 7, 2020 (the Impugned Order) passed by the Executive Director, Adjudication-I (the Respondent) under the Securities and Exchange Commission of Pakistan (Anti-Money Laundering and Countering Financing of Terrorism) Regulations, 2018



Securities and Exchange Commission of Pakistan

(AML Regulations) and the Securities Broker (Operations and Licensing) Regulations, 2016 (Licensing Regulations).

2. The brief facts of the case are that the Respondent observed certain violations pursuant to a limited scope thematic review (the Review), followed by issuance of a show-cause notice to the Appellant, and adjudication culminating in the Impugned Order. The Respondent imposed penalties of Rs. 200,000/- for violation of the AML Regulations and Rs. 50,000/- under the Licensing Regulations.
3. The Appellant challenged the penalties on various grounds, principally citing the death of two of its directors; the initiation of winding-up proceedings; and purported inadequacy of time to fully comply with the AML Regulations, which were relatively new and required more time for familiarization and implementation. It was also contended that, subsequent to the issuance of the Impugned Order, two of its directors passed away and that the Appellant itself is in the process of winding-up. In view thereof, it was argued that the Appellate Bench should take a lenient view and set aside the Impugned Order. Additionally, the Appellant argued that the AML Regulations were relatively new at the time, and that the regulated entities were not afforded adequate time to comprehend and operationalize the compliance requirements embedded within those regulations. The Appellant also asserts that the issuance of subsequent guidelines by the Commission is indicative of the fact that even the Commission recognized the complexities and implementation challenges inherent in the AML Regulations. Lastly, it was submitted that the Appellant had already surrendered its TRE Certificate and it is no more in the brokerage business, and therefore, prayed for a lenient view.
4. The Respondent rebutted the grounds of Appeal and stated that the regulatory obligations pertaining to 'Know Your Customer (KYC)/Customer Due Diligence (CDD)' and Anti-Money Laundering (AML) compliance had been in place since 2012, initially introduced through the Karachi Stock Exchange Limited (now Pakistan Stock Exchange, PSX). It is argued by the Respondent that the AML Regulations do not constitute an entirely new framework, but rather codify and reinforce pre-existing regulatory expectations. Furthermore, the Respondent also



Securities and Exchange Commission of Pakistan

apprised that the Appellant had approximately eight months between the promulgation of the AML Regulations in June, 2018 and the thematic review conducted in February 2019, affording sufficient time to adapt its systems, policies, and procedures in line with regulatory requirements. The issuance of guidelines and conduct of awareness sessions by the Commission were facilitative in nature and did not defer or qualify the enforcement or applicability of the underlying regulatory obligations. As the Appellant was not compliant with the requirements of AML Regulations and Licensing Regulations at the time of Review, therefore, it cannot claim leniency on the pretext that the TRE Certificate had been surrendered.

5. The Appellate Bench (the Bench) has heard the parties and perused the record. In our view, the issues arising for determination before this Appellate Bench are as follows:
- i. Whether the death of two directors of the Appellant constitutes a valid ground for setting aside the Impugned Order and absolving the Appellant (corporate entity) from its regulatory obligations and penal liabilities?
 - ii. Whether the initiation of winding-up proceedings against the Appellant provides a legal basis to exonerate it from regulatory penalties imposed for violations established prior to such proceedings?
 - iii. Whether the argument advanced by the Appellant that the AML Regulations were new and required additional time for understanding and compliance is tenable in light of the regulatory framework and obligations imposed upon regulated entities?
 - iv. Whether the penalties imposed are proportionate, justified, and in conformity with the principles of regulatory enforcement?
 - v. Whether the Appellant is entitled to a lenient view on the basis that it had surrendered its TRE Certificate?

At the outset, it is imperative to clarify that corporate entities, as juristic persons, retain their legal identity and liabilities notwithstanding changes in directorship or initiation of winding-up proceedings. The death of directors, while a matter of factual relevance, does not *ipso facto* dissolve the legal personality of the company or discharge it from obligations, liabilities, or



Securities and Exchange Commission of Pakistan

penal consequences incurred under applicable laws and regulations. Moreover, jurisprudentially, the corporate veil operates to ensure that the company's distinct legal identity remains intact, separate and apart from its shareholders or directors. Notwithstanding the above, the Bench has noted that Mr. Muhammad Ahmed Aslam, the deceased director, was appointed as director of the Appellant on September 24, 2020 whereas the Impugned Order was already passed on July 7, 2020. Hence, the deceased was not a part of the management when non-compliance occurred or this Appeal was filed. It was also noted that contrary to the claim of Appellant and its representative, the other person who died (Mr. Muhammad Aslam Motiwala) was not holding a director's position; rather, he was only a shareholder/member. In view thereof, the death of a director and a shareholder during the pendency of this Appeal has no bearing on the merits of the case. The Bench finds that the demise of a director and a shareholder does not absolve the corporate entity from liability because as a juristic person the Appellant remains responsible for its compliance obligations, and the demise of directors does not discharge it from the penalties imposed for established regulatory breaches. In numerous judgements, higher courts have observed that *"it is a basic legal position under the corporate laws of Pakistan that a corporate entity is a separate independent entity, distinct from its directors and officers. The directors/chief executive officer of a company is not personally liable to pay the liability of their company."* (2010 CLC 1895). Furthermore, in a recent case law Sindh High Court (2023 CLD 570) while elaborating the scope of "Doctrine of separate legal entity" it has been held that *"Identity of a company as a juristic person and consequently its assets are separate from the identity and assets of its shareholders."* This case law reflect that a company is responsible to meet its obligations and liabilities, therefore, status of its members or shareholders have no impact with regard to liabilities of a company.

6. Moreover, under the AML Regulations, regulated persons are obligated to establish, maintain, and update AML/CFT policies and procedures, implement an independent audit function, and appoint a compliance officer responsible for ensuring adherence to regulatory obligations. The Bench has noted that, specifically, Regulations 4(a) and 4(d) impose positive obligations on regulated entities to establish effective internal controls and procedures, while Regulation 18(c)(iii) mandates an independent audit function. Similarly, under the Licensing Regulations,



Securities and Exchange Commission of Pakistan

Regulations 16(9)(e), 16(9)(f), and 29(5) set forth operational, governance, independent internal audit and compliance functions having appropriately trained and competent staff, which reports directly to the board of directors or its audit committee and monthly compliance reports requirements applicable to securities brokers.

7. The Appellant's reliance on the "newness" of the AML Regulations as a defense is untenable. It is well-settled law that ignorance of the law or inadequacy of internal governance structures to comply with regulatory obligations does not exonerate regulated entities from accountability under the regulatory framework. The regulatory continuum of KYC/CDD and AML obligations predate the AML Regulations, having been progressively reinforced since 2012 through the directives and circulars of the KSE/PSX and the Commission. Moreover, the fact that the Commission issued guidelines or conducted awareness sessions subsequent to the promulgation of the AML Regulations does not suspend or defer the applicability of the primary regulatory obligations. Such guidelines are intended to supplement and facilitate understanding but do not constitute conditions precedent for the enforceability of the regulations themselves.
8. The Bench is of the view that the initiation of winding-up proceedings does not extinguish the corporate entity's liabilities because, under the general principles of corporate law, liabilities incurred prior to winding up remain enforceable, and the company's assets remain available for the satisfaction of such liabilities. The winding-up process contemplates the orderly realization and distribution of the company's assets in satisfaction of its outstanding obligations, including regulatory penalties.
9. The commencement of winding-up proceedings does not, as a matter of law, eliminate or discharge liabilities accrued prior to winding-up. A company remains liable for its obligations, which may be satisfied from the assets realized in the course of winding-up. On the argument regarding the novelty of the AML Regulations, the Bench finds that this argument is without merit. The regulatory requirements pertaining to AML/CFT compliance have been evolving since 2012 and the AML Regulations merely codified and strengthened these obligations. The




Securities and Exchange Commission of Pakistan

Appellant had adequate notice and time, approximately eight months, between the promulgation of the AML Regulations and the Review to ensure compliance.

10. The Bench acknowledges that subsequent to the Impugned Order, the Appellant has taken remedial steps to update its AML/CFT policies and procedures including relinquishment of TRE Certificate (as per PSX Letter dated August 15, 2024). While these post-violation remedial measures do not annul the breaches, they may be considered as mitigating factors for the purposes of penalty determination.
11. In view of the foregoing legal analysis and findings, the Appellate Bench concludes that the Impugned Order is legally sustainable in terms of the findings of regulatory violations under the AML Regulations and the Licensing Regulations. Furthermore, the arguments advanced by the Appellant relating to the demise of directors, the initiation of winding-up proceedings, and the novelty of the AML Regulations are not valid grounds for setting aside the Impugned Order or exonerating the Appellant from liability. However, considering the subsequent compliance measures adopted by the Appellant, the Bench, in the exercise of its discretion and in accordance with the principles of proportionality and fairness, hereby reduces the aggregate penalty amount to Rs. 100,000/- (Rupees One Hundred Thousand Only). Accordingly, the appeal is disposed of without any order as to costs.


(Muzafar Ahmed Mirza)
Commissioner


(Abdul Rehman Warraich)
Commissioner

Announced on:

30 SEP 2025