



SECP

INSURANCE DIVISION  
Islamabad

Before Shaukat Hussain, Commissioner (Insurance)

In the matter of

EFU General Insurance Limited

Show Cause Notice No. and Issue Date: ID/Enf/EFUGeneral/2019/333  
dated March 29, 2019

Date of Hearing: April 24, 2019

Attended By: 1. Mr. Altaf Gokal  
Chief Financial Officer  
M/s.EFU General Insurance Limited  
2. Mr. Rashid Sadiq  
Authorized Representative

Date of Order: April 30, 2019

ORDER

Under Regulation 3(1)(a), Regulations 3(2)(a), Regulation 4(a), Regulation 6(2), Regulation 6(3)(a), Regulation 6(4), Regulation 9(3), Regulation 9(4)(b), Regulation 9(4)(c), Regulation 13, Regulation 14(1), Regulation 15(1) and Regulation 15(2) of the Anti-Money Laundering and Countering Financing of Terrorism Regulations, 2018 read with Section 40A of the Securities and Exchange Commission of Pakistan Act, 1997

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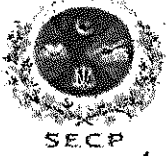
This Order shall dispose of the proceedings initiated against M/s. EFU General Insurance Limited (the "Company"), its Chief Executive and Directors for alleged contravention of Regulation 3(1)(a), Regulations 3(2)(a), Regulation 4(a), Regulation 6(2), Regulation 6(3)(a), Regulation 6(4), Regulation 9(3), Regulation 9(4)(b), Regulation 9(4)(c), Regulation 13, Regulation 14(1), Regulation 15(1) and Regulation 15(2) of the Anti-Money Laundering and Countering Financing of Terrorism Regulations, 2018 (the "Regulations"). The Company and its Directors shall be collectively referred to as the "Respondents" hereinafter.

2. The Company is registered under the Insurance Ordinance, 2000 (the "Ordinance") to carry on non-life insurance business in Pakistan.

3. An onsite inspection of the Company was conducted by the Securities and Exchange Commission of Pakistan (SECP) to assess compliance of the Company with Anti-Money Laundering (AML) and Know-Your-Customer (KYC) requirements as prescribed in the Regulations. The inspection team noted significant number of instances where the Company failed to comply with the relevant laws.

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4. The Company did not update its AML/CFT policy according to Regulation 4(a) of the Regulations. Moreover, the Company did not have an articulated policy and system for monitoring of the transactions with high risk clients for money laundering and terrorist financing purposes in violation of Regulation 13 of the Regulations. The Company stated that it approves total transaction limit for each client, which is compared against the premium received to date to ensure that the total premium amount does not exceed the threshold limit. The inspection team, however, did not find any evidence of the basis on which these threshold limits were decided.

5. The inspection team observed that the Company did not maintain copies of cheques of customers used for premium payment, which were necessary in view of the requirements contained in Regulation 15(1) and 15(2) of the Regulations.

6. The Company did not obtain Verisys confirmation in 10 out of the 11 sample cases of its customers except they were only stamped as 'Verified from Verisys' in violation of Regulation 3(1)(a) and Note (i) of Annexure I read with Regulation 6(4) of the Regulations. The instances are shown below:

Name	CNIC No.	Total Premium Paid (Rs. in Million)
		9.03
		7.55
		3.90
		1.40
		1.35
		0.63
		0.50
		0.34
		0.32
		-2.98

7. The Company did not correctly mention clients' source of income in 7 out of 105 sample cases, in violation of Regulation 6(3)(a) of the Regulations. The client, was mentioned as 'Salaried' on the Client Request Form while the policy schedule indicated otherwise. While the insured items under the commodity section on the policy schedule were shops.

8. The Company failed to obtain service cards or other documentary proof from the salaried clients as required by Note (ii) of Annexure I read with Regulation 6(4) of the Regulations. The instances are given below:

Name	CNIC #	Net Premium (Rs. in million)
		9.03
		7.55
		4.11
		3.90
		3.36
		3.07
		1.97
		1.35



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9. The inspection team noted that the Company failed to obtain in two out of three sample cases, any document except copies of the Computerized National Identity Card (CNIC) and registered business address to verify source of income of sole proprietors required under serial no. 2 of Annexure I read with Regulation 6(4) of the Regulations. The instances are given below:-

Name	National Tax No.	Net Premium (Rs. in million)
		31.32
		9.78

10. The inspection team observed that the Company did not obtain all the documents from two partnership clients, \_\_\_\_\_ and \_\_\_\_\_, required by serial no. 3 of Annexure I read with Regulation 6(4) of the Regulations. In 5 out of 15 new foreign clients selected as sample, the Company did not take copies of the passports from clients having valid visa on them or any other proof of legal stay along with passport causing non-compliance of Regulation 6(4) of the Regulations. These instances were \_\_\_\_\_

The Company also did not obtain the documents except registered business address as required by serial no. 6 of Annexure I read with Regulation 6(4) of the Regulations for Trust, Clubs, Associations, etc. The instances are given below:

Name	NTN	Net Premium (Rs. in million)
		17.670
		1.740
		0.044

11. The inspection team observed that the Company obtained registered business address and, in one case, also registration documents but no other documents were obtained as required by serial no. 7 of Annexure I read with Regulation 6(4) of the Regulations for charitable entities. The instances are given below:

Name	NTN	Net Premium (Rs. in Millions)
		1.220
		0.047

12. The inspection team observed that various documents which were required to be obtained by the Company from limited Companies clients as per serial no. 4 of Annexure I read with Regulation 6(4) of the Regulations were missing from the policy files. In one instance of the sample, the inspection team observed that photocopies of valid passports of all the signatories of account were not obtained for the client, \_\_\_\_\_ as required by serial no. 5(ii) of Annexure I read with Regulation 6(4) of the Regulations.



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13. In 19 out of 54 sample cases, it was observed that customer identification and risk assessment procedures were performed after lapse of significant time from the date of issuance of policies to clients in violation of Regulation 6(2) of the Regulations.
14. The team also observed that risk profiling of several clients from the sample was either missing (3 out of 54 cases) or incorrectly done (5 out of 54 cases) resulting in violation of Regulation 3(1)(a) of the Regulations.
15. In 6 cases, no explanation for categorizing the clients as high risk was found in the files in violation of the requirements of Regulation 3(2)(a) of the Regulations.
16. It was also noted that the Company did not conduct Enhanced Due Diligence (EDD) except senior management approval of its high-risk clients contrary to the requirements of Regulations 9(3), 9(4)(b) and 9(4)(c) of the Regulations.
17. The Company did not generate any STR for premium received and claims paid from/to *alleged* of corruption, misappropriation, and money laundering of the public funds in violation of the requirements of Regulation 4(2) read with Regulation 14(1) of the Regulations.
18. In view of the above, it appeared that the Company failed to comply with Regulation 3(1)(a), Regulations 3(2)(a), Regulation 4(a), Regulation 6(2), Regulation 6(3)(a), Regulation 6(4), Regulation 9(3), Regulation 9(4)(b), Regulation 9(4)(c), Regulation 13, Regulation 14(1), Regulation 15(1) and Regulation 15(2) of the of the Regulations; for which, the Company and its Board of Directors were liable to be penalized under Section 40A of the Securities and Exchange Commission of Pakistan Act, 1997 (the "Act").
19. Regulation 3(1)(a), 3(2)(a), 4(a), 6(2), 6(3)(a), 6(4), 9(3), 9(4)(b), 9(4)(c), 13, 14(1), 15(1) and 15(2) of the Regulations state that:

## **Regulation 3(1)(a) of the Regulation;**

1) *A regulated person shall take appropriate steps to identify, assess and understand, its money laundering and terrorism financing risks in relation to:-*

*a) its customers;*

## **Regulation 3(2)(a) of the Regulations**

(2) *The appropriate steps referred to in sub-regulation (1), shall include-*

*(a) documenting the regulated person risk assessments;*

## **Regulation 4(a) of the Regulations**

*Risk Mitigation and Applying Risk Based Approach. - A regulated person shall-*



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- (a) *develop and implement policies, procedures and controls, which are approved by its board of directors, to enable the regulated person to effectively manage and mitigate the risks that are identified in the risk assessment of ML/TF or notified to it by the Commission;*

### Regulation 6(2) of the Regulations

- (2) *Regulated person shall apply CDD measures when establishing business relationship with a customer and when there is doubt about the veracity or adequacy of previously obtained customer identification data.*

### Regulation 6(3)(a) of the Regulations

- (3) *Customer due diligence (CDD) in broader term include-*

- (a) *identifying the customer or beneficial owner and verifying the customer's/beneficial owner's identity on the basis of documents, data or information obtained from customer and/or from reliable and independent sources;*

### Regulation 6(4) of the Regulations

- (4) *Regulated person shall obtain such documents from different types of customers as provided in Annexure-I.*

### Regulation 9(3) of the Regulations

- (3) *Regulated person shall perform appropriate enhanced due diligence (EDD) measures with customers that are identified as high risk by the regulated person or are notified as such by the Commission.*

### Regulation 9(4)(b) of the Regulations

- (4) *EDD measures include but are not limited to the following-*

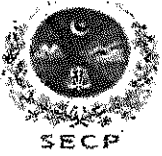
- (b) *establish, by appropriate means, the sources of wealth and/or funds or beneficial ownership of funds, as appropriate; including regulated person's own assessment to this effect; and*

### Regulation 9(4)(c) of the Regulations

- (4) *EDD measures include but are not limited to the following-*

- (c) *conduct during the course of business relations, enhanced monitoring of business relations with the customer.*

### Regulation 13 of the Regulations



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- (1) All business relations with customers shall be monitored on an ongoing basis to ensure that the transactions are consistent with the regulated person's knowledge of the customer, its business and risk profile and where appropriate, the sources of funds.
- (2) Regulated person shall obtain information and examine, as far as possible the background and purpose of all complex and unusual transactions, which have no apparent economic or visible lawful purpose and the background and purpose of these transactions shall be inquired and findings shall be documented with a view of making this information available to the relevant competent authorities when required.
- (3) Regulated person shall periodically review the adequacy of customer information obtained in respect of customers and beneficial owners and ensure that the information is kept up to date, particularly for higher risk categories of customers and the review period and procedures thereof should be defined by regulated person in their AML/CFT policies, as per risk based approach.
- (4) In relation to sub-regulation (3), customers' profiles should be revised keeping in view the spirit of Know Your Customer/CDD and basis of revision shall be documented and customers may be consulted, if necessary.
- (5) Whereas regulated person files an STR on reasonable grounds for suspicion that existing business relationship with customer are connected with ML/TF the regulated person may consider it appropriate to retain the customer -
  - (a) to substantiate and document the reasons for retaining the customer; and
  - (b) the customer's business relations with the regulated person shall be subject to proportionate risk mitigation measures, including enhanced ongoing monitoring.
- (6) The regulated person should monitor their relationships on a continuous basis and ensure that no such relationship exists directly or indirectly, through ultimate control of an account and where any such relationship is found, the regulated person shall take immediate action as per law, including freezing the funds and assets of such proscribed entity/individual and reporting to the Commission.

## Regulation 14(1) of the Regulations

- (1) Regulated person shall comply with the provisions of the AML Act and rules, regulations and directives issued there under for reporting suspicious transactions/currency transactions in the context of money laundering or financing of terrorism.

## Regulation 15(1) of the Regulations

- (1) Regulated person shall maintain all necessary records on transactions, both domestic and international, including the results of any analysis undertaken (e.g.



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*inquiries to establish the background and purpose of complex, unusual large transactions) for a minimum period of five years from completion of the transaction:*

## Regulation 15(2) of the Regulations

*(2) The records shall be sufficient to permit reconstruction of individual transactions including the nature and date of the transaction, the type and amount of currency involved and the type and identifying number of any account involved in the transactions so as to provide, when necessary, evidence for prosecution of criminal activity and the transactions records may be maintained in paper or electronic form, provided it is admissible as evidence in a court of law.*

20. Accordingly, a Show Cause Notice (SCN) No. ID/Enf/EFUGeneral/2019/333 dated March 29, 2019 was issued to the Respondents, calling upon them to show cause as to why the fine as provided under Section 40A of the Act should not be imposed on them for the aforementioned alleged contraventions of the law. Thereafter, the hearing in this matter was scheduled on April 15, 2019. However, on request of the Company, the hearing was rescheduled on April 24, 2019.

21. Meanwhile, the Authorized Representative, Mr. Rashid Sadiq, on behalf of the Respondents submitted reply vide letter dated April 19, 2019, which is summarized below;

- i. The Company endeavors to be fully compliant with the AML/CFT protocols regarding customers and policies issued after the promulgation of the Regulations and ancillary guidance provided by the SECP. With regards to older client accounts, the Company is striving hard to ensure compliance with AML/CFT protocols and is following up with existing customers and agents to collect relevant AML/CFT documents for the purposes of updating its records where there may be a shortfall in documentation for a particular client.
- ii. At the time the Regulations were introduced, effective from June 13, 2018, there was no instructive guidance issued by the SECP to assist with the implementation of the provisions of the Regulations especially where SRO 20(I)/2012 (hereinafter the 'SRO') had expressly been repealed by operation of Regulation 22 of the Regulations. Effectively, therefore, for clients inducted before June 13, 2018, the SRO may be applicable but the Regulations may not be immediately applicable where the whole structure of the AML/CFT protocols was undecided as a result of restructuring of the law. For clients inducted after June 13, 2018, the Regulations may be applicable but the SRO may not and in this circumstance where no guidance has been provided it may be unfair to penalize persons seeking to implement the law as per their own interpretations in absence of the requisite guidance from the SECP. The guidance by the SECP in the form of Anti-Money Laundering, Countering Financing of Terrorism, and Proliferation Financing Guidelines were issued in September, 2018 (hereinafter the 'Guidelines'). It is evident that no conclusive structure for implementation of AML/CFT protocols is as yet available to regulatees of the SECP as the SECP has



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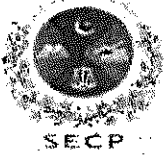
now recently introduced 'AML FAQs Second Version' on 12 April, 2019 (hereinafter the 'FAQs') through publication on its website for further clarification of the manner of implementation of AML/CFT protocols. Therefore, it would be highly irregular to seek to enforce a scheme of law that is as yet to be fully developed by the apex regulatory authority itself.

- iii. It would be unfair and unjustified to apply provisions of the law to matters predating the promulgation of the Regulations as supplemented by the Guidelines and the FAQs where the threshold proposed, in the Regulations, for monetary penalties for non-compliance is so outrageously high as to debilitate the operations of an enterprise if applied to its full extent.
- iv. The penalizing provision is also particularly onerous if seen in comparison with the penalizing provision of Section 156 of the Ordinance that was previously applicable to insurance companies through the SRO. On this basis alone, the SECP should ensure that the law operates to guarantee justice by curtailing instances of stringent enforcement of the law against matters that predate the FAQs.
- v. The Insurance Association of Pakistan, through letter dated March 11, 2019 bearing reference no. C-1677(b)/150, communicated its concerns to the SECP on behalf of its member insurance companies and the Company wishes to reiterate the concerns and make additional observations as informed by circumstances particular to it.
- vi. The probability of situations where money is reverted back to the clients by the Company is very rare in general insurance business. Payments against policies can only be made when there is a refund of premium or settlement of any claim. The payment of a claim is a highly regulated area in insurance industry where claims are paid on the basis of survey reports issued by surveyors registered with the SECP who are appropriately qualified to do their jobs. Refunds to be paid by the Company are paid through crossed cheques in favour of the policy holders only. All material claims are reviewed and processed at the head office with the approval of the management. Therefore, chances of processing claims and issuing refund cheques for the purpose of money laundering are very rare and in case of material claims it is nearly impossible to process such claims keeping in view the controls placed in the system. The Financial Action Task Force (hereinafter the 'FATF'), in their draft guidelines also recognizes that there is very little risk that general insurance will be used for nefarious purposes.
- vii. It may also be appreciated that the SECP itself has provided specific guidance in relation to insurance in the Guidelines on page 27 thereof in the following terms:

*"Group Life Insurance:*

*The group life insurance products are simple and premiums tend to be very low. Premiums can only be paid through a bank account and no cash is involved. The life insurance products are only sold to resident persons. The likelihood that*





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*insurance products are used for ML/TF is LOW, with minor impact, and can result in a LOW risk assessment."*

- viii. In direct contrast to the limited scope of application of proposed AML/CFT protocols to the general insurance industry, the operations of the Company have been subjected, firstly through the SRO and then through the Regulations, Guidelines and FAQs, to the requirement to perform such exhaustive procedures for AML and KYC with its customers that are cumbersome, costly and hard to perform.
- ix. Following is a discussion in relation to specific challenges faced by the Company with regards to compliance with proposed AML/CFT protocols:
- a. No reliable source of critical client's information:

The Company has now acquired the services of Lexis Nexis for performing the AML/KYC checks of the client along with NADRA. Previously, the SECP had not prescribed any authentic source of information to identify high risk customers such as Politically Exposed Persons (PEPs), Money Launderers, Terrorists etc. Websites such as UN Sanctions etc. do not provide identity numbers of the persons listed in most of the cases. Therefore, the Company has to check multiple references on the basis of matching names making it very difficult for the Company to decide on the basis of the plethora of matching names whether that exact person exists in its data base. Accordingly, the SECP is requested to prepare a data base of all corrupt individuals, PEPs, etc. and place on their website for the benefit of the insurance industry.

With regards to searches of the NADRA database, where the Company has to check the CNIC of any individual, the verysis system of NADRA requires the date of issue of the CNIC to be manually fed into the search tool which is a time-consuming process.

NADRA may kindly be requested by the SECP to waive this condition of data access so that the Company may extract the required information from the system with as little strain on its resources as possible.

- b. Additional cost to Company:

To have access to the data base of list of PEPs and other corporates, the Company had to purchase a service of Lexis Nexis which costs around PKR 1.5 Million per year. To perform the required verifications from the various websites and obtaining documents from client and maintaining records, the Company had to increase its head count by 3 additional persons costing approx. PKR 1.5 million per year. Each verification of a CNIC details is charged by NADRA at the rate of Rs. 35/- which is very costly when 40-50



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CNICs have to be verified in a day. SECP may request NADRA to reduce the cost so that it becomes affordable for the industry.

c. Exhaustive need of documents:

Regardless of the low risk nature of the business transacted by the Company, it is required to collect exhaustive documentation from its clients based on type of the clients.

A threshold of maximum amount of annual premium should be fixed by SECP below which AML procedures will be restricted to copy of CNIC in case individuals and copy of NTN / incorporation certificate in case of others to avoid wasting of time and resources on immaterial transactions

- x. Accordingly, it is hoped that the SECP fulfils its mandate of beneficial regulation by thoroughly considering the hardships being borne by the insurance industry, especially the general insurance industry, as a result of the stringent requirements of the AML/CFT protocols being implemented through the Regulations and accompanying directions and guidance.
- xi. Without prejudice to the above preliminary submissions, the Company's point wise submissions in response the SCN are as follows:-
- xii. **AML/CFT Policy:** The Regulations were issued on June 13, 2018 and the process of training and understanding the provisions of these Regulations was completed by issuance of the Guidelines. The Company has since started the process for updating its AML/CFT policy in accordance with the new Regulations and the Guidelines. The revised policy duly approved by the board is in place. However, we may add that all the requirements of the Regulations since inception are actively being effectively implemented in the system as will be demonstrated herein below with regard to specific instances mentioned in the SCN. The Company, therefore, is of the view that it has fully complied with Regulation 4 of the Regulations and that any adverse finding in this regard is not sustainable.
- xiii. **Transaction Limit:** The management fixes the transaction limit based on risk profiling of the customer and the risk tolerance level of the management in relation to that particular customer.
- xiv. **Record keeping /source of premium:** The Company's policy does not permit acceptance of cheques other than the insured for premium payments. Further, the Company captures all details of the cheque in our receipt system which can be traced from the vendor bank account whenever required. You will kindly appreciate that Regulations 15(1) and 15(2) of the Regulations do not specifically require copies of cheques to be retained. Further, Clause 14 of the Guidelines also does not make it mandatory to retain copies of the cheques. In view of the



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above, the Company does not agree that it has violated Regulation 15 (1) & (2) of the Regulations.

- xv. **No evidence of Verisys check:** The Company obtains copies of the CNIC from customers before allotment of the client code i.e., before entering into business with new customers. The authenticity of the CNIC is duly verified from the verysis system and the stamp 'Verified from Verysis' is affixed thereon by the concerned officer. This is done invariably for all customers and, therefore, the Company is fully compliant with the requirement and any apprehension in this regard is unjustified and unfair. You will kindly appreciate that the finding in the LOF in this respect is not supported by the laid down requirements of the Regulations and the Guidelines.
- xvi. **Incorrect source of Income -** The risk profiling of the clients is initially done at the branches and checked at the head office and if required appropriate amendments are made in the system. The risk profiling was duly marked as low. There could be inadvertent omission due to human error.
- xvii. **Failure to obtain documents from salaried clients:** The Company duly obtains all the required documents from its salaried customers. New customers data needs to be verified. Keeping in view the low quantum of the premium in all these customers, simplified due diligence was carried out as provided under the Regulations and the Guidelines and the identity document i.e., CNIC was obtained and verified from NADRA through verysis system. You will kindly appreciate that Regulation 11 of the Regulations and the Guidelines allow simplified due diligence. The Company, therefore, is not in violation of Regulation 6(4) read with Note (ii) of Annexure I of the Regulations as alleged in the LOF.
- xviii. **Failure to obtain documents from sole proprietorship clients: M/s.** Proprietor by Nature and M/s. (AOP by Nature) are low risk category clients. They are existing customers and as part of updating the risk assessment of our existing clients, we have obtained the documents required under Note (2) of Annexure I to the Regulations. The Company, therefore, is not in violation of S. No. 2 of Annexure I read with Regulation 6(4) of the Regulations.
- xix. **Failure to obtain documents from Clients:** The Company duly obtained all the documents from its existing and new customers. With regard to particular instances mentioned in the show cause, all documents were obtained /in the process of obtaining the same from existing clients. In light of the above, the Company is not in default of serial No. 6 of Annex 1 read with Regulation 6(4) of the Regulations, as alleged in the LOF. United States Education Foundation in Pakistan and Education Institute Charity and new observations and need to be checked from data. The Company has duly obtained in the documents required from these customers.



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- xx. **Failure to obtain documents from Limited Company clients:** The Company duly obtained all the documents from its existing and new customers including ..... In light of the above, the Company is not in default of serial No. 4 of Annexure I read with Regulation 6(4) of the Regulations.
- xxi. **Perceived contravention of Regulation 6(2) of the Regulations:** We do not agree with the observation in the SCN that the Company has contravened the provisions of Regulation 6(2) of the Regulations. It is submitted that the AML/CFT protocols followed by the Company are strictly in accordance with the requirements of the Regulations and the Guidelines. Regulation 6(5) of the Regulations allows the Company to verify the identity of customers after the establishment of the business relationship as soon as reasonably practicable in a manner that does not interrupt the normal conduct of business and allows MT/TF risks to be effectively managed. Clause 9 (a) (Timing of verification) of the Guidelines states as under:
- "The best time to undertake verification is prior to entry into the business relationship or conducting a transaction. However, as provided in the regulations RPs may complete verification after the establishment of the business relationship".*
- xxii. In this regard, we may also refer to Clause 9(b) of the Guidelines which is reproduced hereunder for ease of reference:
- RPs are required to apply CDD measures to existing customers on the basis of materiality and risk, and to conduct due diligence on such existing relationships at appropriate times, taking into account whether and when CDD measures have previously been undertaken and the adequacy of data obtained."*
- xxiii. The examples cited in the SCN relate to the existing customers having a long association with our company. You will kindly appreciate that for new customers, the Company never establishes any business until verification and completion of CDD as per the Policy of the Company, the Regulations and the Guidelines. We are in complete compliance with Regulation 6(2) of the Regulations by performing the verification procedure on customers timely before establishment of business relationship with them and the allegation of violation of Regulation 6(2) of the Regulations is hereby denied.
- xxiv. **Missing or incorrect risk profiling:** It is denied that there is any missing or incorrect risk profiling and any allegation in this regard is denied. We have a centralized AML / KYC compliance department at the head office where the identification code of the respective client is allotted and marked in the system. The risk profiling of the clients is initially done at the branches and checked at the head office finance department. Any amendment, if required in the categorization of the client is done at the head office and appropriately marked in the system. The Company, therefore, is not in violation of Regulation 3(1) (a) of the Regulations.



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- xxv. **No explanation for risk categorization:** Regulation 3(2)(a) inter alia requires that the appropriate steps for risk assessment shall include "documenting the regulated person risk assessment". The reason for categorizing a client as high is reported in our "Management Approval Form" which is prepared for high risk clients as required under Clause 12 (iii)(6) (Enhanced CDD Measures) of the Guidelines. You will kindly appreciate that the Company is not in contravention of Regulation 3(2)(a) of the Regulations.
- xxvi. **Enhanced due diligence not conducted:** In all the cases pointed out by the inspection team, the Company had obtained approvals from its senior management to continue relationship. Additionally, the enhanced monitoring of business relations with these customers is being duly carried out on monthly basis. In this regard, the monthly reports extracted from the system with regard to EDD were also shared with the inspection team. Source of wealth of the above entities is duly established. The entities mentioned are existing customers and all the required information/documents were duly obtained and updated in the system. The Company is not in default of the Regulation 9(3) of the Regulations.
- xxvii. **Failure to file suspicious transaction reports (STRs) with financial monitoring unit (FMU):** With regard to the finding regarding failure to report Suspicion Transaction Reports (hereinafter 'STRs') with Financial Monitoring Unit, in the case of both customers, namely M/s. \_\_\_\_\_ and \_\_\_\_\_ the Company had marked the clients as high risk being owned by politicians, therefore, their transactions with the Company were closely monitored on regular basis as per stipulated requirements. The scope given under Regulation 14(4) of the Regulations was never highlighted in any of their transactions with the Company, there was no abnormal activity and the pattern of transactions was normal and, therefore, there was no justification to file STR to FMU in these cases. Accordingly, the Company does not agree that it has violated Regulation 14(1) of the Regulations.
22. The hearing of April 24, 2019 was attended by the Authorized Representatives of the Respondents namely Mr. Rashid Sadiq and Mr. Altaf Gokal at the Head Office of the SECP.
23. During the hearing, the Authorized Representatives reiterated their comments and stated that there should be separate guidelines for insurance sector. They maintained that the policy was updated in March 2019. The Representative further stated that Verisys was performed in cases highlighted by the SECP. In case of Mr. \_\_\_\_\_, the Representatives admitted omission on part of the Company. With regards to observation of inspection team regarding missing documents, the Representatives stated that the documents have subsequently been completed.
24. The Company did not update its AML/CFT policy according to the Regulations. Formulation and communication of updated AML/CFT was required to ensure that the Company carried out its business practices within the legislative framework laid down under the Regulations. Updating of the policy was also important for awareness



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and guidance of employees about the Regulations impacting their area of work. The Company contravened Regulation 4 of the Regulations that required the Company to formulate, implement and monitor policies, procedures and controls approved by its board of directors to effectively manage AML/CFT related risks. The Company has admitted that the policy was updated in March 2019, whereas the Regulations were made effective since June 2018. Compliance with the provisions of laws is binding on the Company. The Company cannot delay/avoid compliance with the law, making excuse of training and issuance of guidelines by SECP to understand the law.

25. The only detail available about monitoring of transactions for AML/CFT purposes in the Company's AML policy is quoted below:

*"At every day end a system generated report is extracted listing the total number of new client codes allotted with client particulars and branch reference. The report is verified at Finance with supporting documents of client and any corrections required are made in the system."*

26. Further, the Company did not provide any documentary evidence for how the 'limits' for clients were decided. The Company also did not provide monthly reports comparing the approved limits with business under-written.

27. The Company has stated that its policy does not permit acceptance of cheques other than the insured for premium payments. Further, the Company captures all details of the cheque in its receipt system, which can be traced from the vendor bank account whenever required. The Company did not substantiate its comments with documentary evidence to the inspection team. It did not provide copies of cheques of the premium received. In light of the explanation given in Regulation 15(2) of the Regulations related to reconstruction of a transaction, a copy of cheque is necessary and reliable record to identify the payer, payee, amount, currency, payment date and account holder; and evidence for criminal prosecution, if any.

28. The Company has argued that it obtains copy of the CNIC from customers before allotment of the client code i.e., before entering into business with new customers. The authenticity of the CNIC is duly verified from the Verisys system and is properly stamped. The inspection team observed that merely stamping CNIC as 'Verified from Verisys' (without any date, signature and remarks) was not a reliable evidence of performance of Verisys of customers' CNIC. The Company should have retained print copies of the Verisys.

29. In 7 out of 105 sample cases, it was noted by the inspection team that clients' source of income was incorrectly stated. The Company has admitted that due to inadvertent clerical error(s) on the part of relevant officer, the individuals were wrongly classified as salaried customers. The Company's claim that clients' personal assets were insured and the premium amount was low in the cases highlighted by the inspection team is not entirely correct as . . . insured business property paying a premium of Rs. 9.03 million. . . also paid significant amount of premium of Rs. 3.07 million to the Company.



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30. From the sample of cases, where clients were categorized as salaried, the team observed that the Company did not obtain service cards or other documentary proofs as required by Note (ii) of Annexure I read with Regulation 6(4) of the Regulations. The Company did not obtain service card or certificate or letter of the employer from salaried clients despite large premium amounts paid by such policyholders.

31. In two out of three sample cases, the team noted that the Company also failed to obtain any document except copy of CNIC and registered business address to verify source of income of sole proprietors. ..... was mentioned as 'Sole Proprietor' under 'Client Sub Type' field on the CRF form. The documents 'Request on letterhead' and 'Copy of registration certificates' were not found by the team during the inspection of the clients' documents.

32. Similarly, regarding missing documents in the sample of partnerships, trusts, clubs, Associations etc., the Company has claimed that it duly obtained all the documents from its existing and new customers such as ..... and ..... However, the inspection team did not find the documents in the files.

33. In 19 out of 54 sample cases, it was observed that customer identification and risk assessment procedures were performed after significant time from the dates of issuance of policies to clients. Regulation 6(6) of the Regulations requires adopting risk management procedures regarding situations where business relationships may be utilized for money laundering or terrorist financing before verification of customers, and requires documentation of the types of circumstances in the Company's CDD policy allowing for performance of verification procedures after establishment of business relationship. The Company in its AML policy did not provide for the types of circumstances where verification of customers could be performed after establishment of business relation.

34. Company's argument that Clause 9 (a) (Timing of verification) of the Guidelines states that the regulated person may complete verification after the establishment of the business relationship is not sustainable as Regulation 6(5) (a) of the Regulations states that:

*"(5) Regulated person should verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or may complete verification after the establishment of the business relationship, provided that-  
(a) this occurs as soon as reasonably practicable;"*

35. The inspection team considered that the sufficient time was available to comply with the requirement and accordingly was not in accordance with Regulation 5(a) of the Regulations. Company cannot expect to have an indefinite period to comply with such requirement.

36. The inspection team also observed that risk profiling of several clients from the sample was either missing (3 out of 54 cases) or incorrectly (5 out of 54 cases) done.



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Further, 6 cases of the sample marked as high risk, however, no explanation for categorizing clients as high risks was found in the files. Management Approval Form was missing in several cases as discussed in other sections and where the forms were available, there was not enough detail given on the form to corroborate a client risk categorization.

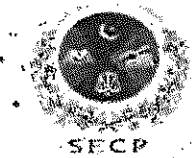
37. The inspection team observed that the Company did not conduct EDD of its high-risk clients. The report submitted to the inspection team was monthly business report that nowhere highlighted any transaction with high-risk customers, The Company failed to provide any explanation that how the monthly reports were being used for monitoring of high risk customers. Additionally, the team did not find any evidence of additional steps taken to establish source of income and enhanced monitoring of high risk customers from either the customers' files or the Company system.

38. The inspection team examined files of 71 PEPs and observed that no EDD as required by Regulation 9(3) and 9(4) of the Regulations was performed on PEPs despite being marked as high risk. The Company did not generate any STR for premium received and claim paid from/to [redacted] alleged of corruption, misappropriation, and money laundering of public funds in violation of the requirements of Regulation 4(2) read with Regulation 14(1) of the Regulations.

39. National Accountability Bureau (NAB) has alleged [redacted] for using the hospital for accumulation of wealth and assets gained through corruption, and money laundering. This should have raised suspiciousness over the legitimacy of the funds used for payment of insurance premium of the hospital. Regulation 4(2) of the Regulations requires filing of STR with FMU when there is suspiciousness that funds may have been derived from illegal activities. In this case, the filing of a reference by NAB against [redacted] with Sindh High Court provided enough ground for suspiciousness over the source of the funds used for insurance premium payment of the hospital. In the same way, the report of joint investigation team mentioned above has made allegations against the [redacted] of misappropriation and money laundering. The report has recommended filing NAB reference against the group. The report provides grounds for suspiciousness over the source of funds used for premium payment by the [redacted] and its companies. The Company has received 41.7 million premium from [redacted] of companies, which was allegedly involved in money laundering of Rs. 42 billion through alleged fake accounts. It is mentioned in Regulation 15 of the Regulations that regulated person shall maintain all necessary records of transactions for a minimum of five years from completion of the transactions. Copies of cheques and necessary record are required to verify source of funds in accordance with Regulation 6(3)(c) of the Regulations.

40. Accordingly, Company's argument that there was no abnormal activity and the pattern of transactions was normal and, therefore, there was no justification to file STR to FMU in these cases, is not valid.





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41. The Respondents have stated that the observations in the SCN are in relation to non-compliance with the Regulations with respect to client accounts predating the promulgation of the Regulations; therefore, the SECP may not penalize the Company for such lapses as that would constitute an unfair and unjust retrospective application of the law, which does not prescribe such retrospective application. In this regard, attention of the Respondents is drawn towards KYC/CDD requirements under the SRO 20(I)/2012, which were applicable to the Company before promulgation of the Regulations. Therefore, the said argument of the Respondents is not tenable. It is also pertinent to mention here that the Guidelines and FAQs were provided to assist the regulated persons in complying with the Regulations. It, by no means, extended the implementation of the Regulations. It may be noted that KYC/AML was also part of the SRO 20(I)/2012 issued in 2012. The Regulation 13 of the Regulations also states that:

*"13. Ongoing Monitoring.- (1) All business relations with customers shall be monitored on an ongoing basis to ensure that the transactions are consistent with the regulated person's knowledge of the customer, its business and risk profile and where appropriate, the sources of funds.*

*(2) Regulated person shall obtain information and examine, as far as possible the*

*background and purpose of all complex and unusual transactions, which have no apparent economic or visible lawful purpose and the background and purpose of these transactions shall be inquired and findings shall be documented with a view of making this information available to the relevant competent authorities when required.*

*(3) Regulated person shall periodically review the adequacy of customer information obtained in respect of customers and beneficial owners and ensure that the information is kept up to date and relevant, by undertaking reviews of the existing records, particularly for higher risk categories of customers and the review period and procedures thereof should be defined by regulated person in their AML/CFT policies, as per risk based approach.*

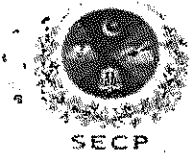
*(4) In relation to sub-regulation (3), customers' profiles should be revised keeping in view the spirit of Know Your Customer/CDD and basis of revision shall be documented and customers may be consulted, if necessary.*

*(5) Where regulated person files an STR on reasonable grounds for suspicion that existing business relations with a customer are connected with ML/TF the regulated person may consider it appropriate to retain the customer-*

*(a) to substantiate and document the reasons for retaining the customer; and*

*(b) the customer's business relations with the regulated person shall be subject to proportionate risk mitigation measures, including enhanced ongoing monitoring.*

*(6) Deleted through SRO 1170(I)/2018 dated October 01, 2018*



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(7) *The regulated person should monitor their relationships with the entities and individuals mentioned in sub-regulation (5a) of regulation 6, on a continuous basis and ensure that no such relationship exists directly or indirectly, through ultimate control of an account and where any such relationship is found, the regulated person shall take immediate action as per law, including freezing the funds and assets of such proscribed entity/individual and reporting to the Commission."*

42. The Respondents have stated that FATF Glossary excludes non-life insurance activities from the activities performed by the financial institutions, which fall under the scope of the FATF requirements. Therefore, FATF recommendations do not apply to non-life insurance companies. In this regard, it is stated that the Respondents are required to meet minimum requirements of the Regulations even in the case of low risk category of customers. Furthermore, the instant proceedings have been initiated under the Regulations, which are applicable across the board without excluding non-life insurers.

43. In nutshell, the inspection team observed the following non-compliances;

- AML Policy was not updated;
- No proper monitoring system for monitoring of transactions with high risk clients;
- Copies of cheques were not retained;
- Lack of Verisys of clients CNICs;
- Lack of proper identification of clients;
- Documents not obtained as required by Annexure I of the Regulations;
- Delay in performance of Customers' Due Diligence;
- Missing or incorrect Risk Profiling of Customers;
- Lack of documentation of Risk Assessment;
- No Enhanced Due Diligence on High Risk Customers; and
- Suspicious Transaction Report (STR) not filed upon Transactions with Suspicious Entities.

44. Regulation 21 of the Regulations states that:

*" Penalty.- (1) Any person who contravenes or fails to comply with any provision of these regulation made shall be liable to pay such sum as provided in section 40A of the Act, in addition to any penalty provided under AML Act."*

45. I have carefully examined and given due consideration to the written and verbal submissions of the Respondents, and have also referred to the provisions of the Act, the Regulations made thereunder and/or other legal references. I am of the view that the violations of Regulation 3(1)(a), Regulations 3(2)(a), Regulation 4(a), Regulation 6(2), Regulation 6(3)(a), Regulation 6(4), Regulation 9(3), Regulation 9(4)(b), Regulation 9(4)(c), Regulation 13, Regulation 14(1), Regulation 15(1) and Regulation 15(2) of the Regulations, are clearly established, for which the Respondents may be penalized in terms of Section 40A of the Act.



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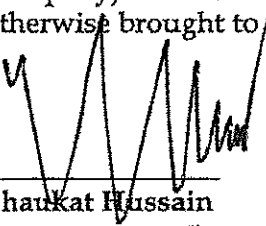
*"Penalty for violation of rules, regulations, directives and notifications. - (1) Any person who contravenes or fails to comply with any provision of rule made under section 39 or regulation made under section 40 or directive or notification issued under this Act shall be liable to pay by way of penalty a sum which may extend to ten million rupees and where the contravention is a continuing one, with a further penalty which may extend to one hundred thousand rupees for every day after the first during which such contravention continues.*

*(2) A penalty under sub-section (1) shall be imposed by the Commission after providing a reasonable opportunity of being heard to the party."*

46 In exercise of the power conferred on me under Section 40A of the Act, I, take a lenient view and do not impose fine on Board of Directors of the Company. However, I impose a fine of Rs. 600,000/- (Rupees Six Hundred Thousand only) on the Company under the said provision of the Act, due to the non-compliances, as mentioned hereinabove. The Company is further directed to report compliance with AML/CFT laws and Regulations within one month of the date of this Order. Moreover, the Respondents are hereby warned and directed to ensure full compliance with the Ordinance, rules, regulations and directives of the SECP in future.

47. Hence, the Company is hereby directed to deposit the applicable fine in the designated bank account maintained in the name of Securities and Exchange Commission of Pakistan with MCB Bank Limited within thirty (30) days from the date of this Order and furnish receipted vouchers issued in the name of the SECP for information and record.

48 This Order is issued without prejudice to any other action that the SECP may initiate against the Company and / or its management (including the CEO of the Company) in accordance with the law on matters subsequently investigated or otherwise brought to the knowledge of the SECP.

  
Shaukat Hussain  
Commissioner (Insurance)

