



Securities and Exchange Commission of Pakistan
Securities Market Division
Public Offering and Regulated Persons Department

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No. 1(1)SMD/LCID/PMEX-2015

July 21, 2016

HG Markets Pvt. Ltd

Through its Chief Executive Officer,
2-Shahrah-e-Aiwane Tijarat,
Lahore.

El-Beena Commercial Center,
BC-11, Block 5, Clifton
Karachi

Subject: Order in Respect of Show Cause Notice dated December 03, 2015 bearing No. 1(1)SMD/LCID/PMEX-2015

Dear Sir,

Please find enclosed herewith a copy of order dated July 21, 2016 in the title matter for your record and necessary action.

Yours truly,


Muhammad Farooq
Additional Director (PRPD)

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ORDER

In the matter of Show Cause Notice issued under Section 22 of the Securities and Exchange Ordinance, 1969 to H.G Markets (Pvt.) Limited

This Order shall dispose of the proceedings initiated through Show Cause Notice bearing No. 1(1) SMD/LCID/PMEX-2015 dated December 3, 2015 ("**Notice**") served to H.G Markets (Private) Limited ("**Respondent**") by the Securities and Exchange Commission of Pakistan ("**Commission**") under Section 22 of the Securities and Exchange Ordinance, 1969 ("**Ordinance**"). The Respondent is a corporate member of Pakistan Mercantile Exchange Limited ("**PMEX**") and registered as a broker with the Commission under the Brokers and Agents Registration Rules, 2001 ("**Brokers Rules**").

2. The fact of the matter are that the Commission in exercise of its powers under sub-section (1) of section 6 of the Ordinance, read with Rule 3 and Rule 4 of the Stock Exchange Members (Inspection of Books and Record) Rules, 2001 ("**Inspection Rules**") ordered an inspection of the *inter alia* the books and record required to be maintained by Respondent during the period from January 08, 2014 to May 31, 2015 vide order dated June 1, 2015.

3. The Inspection Team submitted its report ("**Inspection Report**") on October 15, 2015. It is worth mentioning here that the Inspection Team shared its findings with the Respondent before submission of the report.

4. The Inspection Team observed that the Respondent was non-complaint with the regulatory framework including Commodity Exchange and Futures Contracts Rules 2005 (CEFC Rules), System Audit Regulations and circulars issued by PMEX (detail thereof is given in later part of the order). In light of observations made in the Inspection Report, the Commission served the Notice to the Respondent under Section 22 of the Ordinance and the Respondent was called upon through its chief executive officer to show cause in writing as to why penalty may not be imposed under Section 22 of the Ordinance.

5. The chief executive officer of the Respondent vide letter dated December 16, 2015 responded the Notice and *inter alia* submitted that same issues were replied vide letter dated September 15, 2015 in detail to the Inspection Team. He also sought a copy of full Inspection Report and allied documents.

6. The matter was scheduled for hearing on January 22, 2016, before the then Director/HOD (LCID), which on the request of chief executive officer of the Respondent was adjourned. Before the matter could be concluded by then Director/HOD (LCID), I assumed the charge of the post Executive Director (PRPD) and the instant matter was placed before me along with the other pending adjudication matters. The matter was rescheduled for hearing on March 22, 2016. But no one appeared on said date to attend the hearing. In response to a telephonic query, Mr. Irfan Adhami an employee of the Respondent stated that notice may be sent at Respondent's head office, located in Lahore, instead of serving at registered office



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Karachi. Meanwhile, Mr. Faisal Hussain Naqvi, Advocate vide email dated April 18, 2016 intimated that the Respondent has appointed him as counsel in the matter. In response, Mr. Naqvi was asked for filing of response in writing to the Notice. Mr. Irfan Adhami vide email dated April 27, 2016 intimated that an elaborated reply in the matter would be submitted in couple of days, which was received on May 02, 2016, from chief executive officer of the Respondent.

7. The observations made by the Inspections Team and submissions/comments of the Respondent against each of the observation may be summarized as under:-

- a) **Maintenance of books of Account:** The Inspection Team sought soft copy of client's ledger. However, the Respondent provided a report downloaded from PMEXs system instead of providing record maintained by it. The Inspection Team was of the view that the Respondent was non-compliant to rule 22 of the CEFC Rules, which provides that every broker shall prepare and maintain the books of account and other documents, in electronic or manual form that will disclose a true, accurate and up to date position of the business.

In response, the Respondent stated that *"the issue has been rectified subsequent to the inspection and now book of accounts are being maintained"*. In order to substantiate its claim, the Respondent provided a copy of Auditor Report to the members dated October 2, 2015, issued by Muhammad Farooque Dandia & Company, Chartered Accountants, which, *inter alia*, states that *"in our opinion, proper books of accounts have been kept by the company as required by the Companies Ordinance, 1984"*.

- b) **Execution of Trades outside Exchange:-** The Inspection Team, while reviewing a Respondent's brochure noted that it has described Harvest Top Worth International ('HTI') as its associated which functions as introductory Broker providing FX/CFD trading facilities to clients in Pakistan. The Inspection Team also noted that the Commission passed an Order dated October 04, 2006 against HTI on account of illegal brokerage services under Section 5A of the Securities and Exchange Ordinance. Further, appeal, against the said Order, was set aside vide Order dated August 04, 2015 by the Appellate Bench.

In response, the Respondent stated that *"it and HTI are two independent bodies involved in two entirely different businesses. It is settled law that a company (such as HGML) has an entirely different legal personality from those of its shareholders (such as Mir Gulrez Mir). Accordingly SECP views on the legality of HTI's business have no bearing on the legality of HGML's business. Without prejudice to the foregoing, it is stated that HGML does not act as broker in a Commodity futures contract except in connection with PMEX"*.

- c) **Maintenance of Account Opening Forms ('AOF'):** The Inspection Team randomly selected AOFs of certain clients and noticed various discrepancies including detail of occupation and annual income were not filled-in, instruction pertaining to clause 17 of





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Special Terms and Conditions were not filled, CNICs of account holder and nominee were not attached, nominee not mentioned, power of attorney was not attached, authorized person was not mentioned etc.

The Respondent responded that *"the discrepancies have been removed and now AOF is in accordance with the requirements of the regulations"*. In support of its claim the Respondent submitted copy of account opening form of Mr. Anjum Raza, who opened his account on March 21, 2016.

- d) **Acceptance of cash over and above Rs.25,000:-** The Inspection Team noticed that the Respondent received payment in cash amounting to Rs 10.8 million in 19 cases over and above Rs.25,000/- in violation of Circular No. PMEX/COM/35-2012 dated September 10, 2012. It is pertinent to mention here that the maximum cash received was Rs 1.8 million.

In response, the Respondent stated that *"the cash deposits referred in the report were made by clients themselves"*. The Respondent further stated that *"it would ensure that all client payments are received in line with the relevant circulars and in strict compliance with all applicable rules of the business"*. In support of its statement, the Respondent provided a copy of Notice required to be signed by all the client at the time of opening of account, which *inter alia* states that (1) "cash is not accepted. (2) the clients through cross cheques or cash may deposit funds through designated branches of MCB, in bank account titled as "H.G. Markets (Pvt.) Limited-Clients Group. (3) The clients would be paid through cross cheques. In addition to the above, the Respondent provided copies of two bank deposit receipts as evidence for receiving funds from clients through banking channel.

- e) **Maintenance of record at registered office:-** The Inspection Team observed that the Respondent was maintaining record/ statutory documents at its Head Office located at Lahore, instead of at its Registered Office located in Karachi. The Respondent was required to intimate the respective Company Registration office that they were maintaining record at a place other than its registered office. However, the Inspection Team observed that the Respondent submitted the intimation late to the respective Company Registration Office.

The Respondent admitted the mistake and assured compliance in the future.

- f) **Recording of Orders received through Telephone:-** The Inspection Team noted that in violation of clause (VI) of Section 4 of System Audit Regulations, the Respondent did not maintain telephonic recording system, with the plea that most of clients execute their orders by themselves via web trade.

In this regard, the Respondent stated that *"the violation has been rectified by installing a call recording system"*.

- g) **Know Your Customer ('KYC') Policy:-** Circular No. NCEL/MEM/08-2010 dated March 2, 2010 requires that authorized person of the broker shall annex his statement

NIC Building, Jinnah Avenue, Blue Area, Islamabad, Pakistan
PABX: 9207091-94 (314), TEL: 92-51-9100478, FAX: 92-51-9100440



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with the Account Opening Form to ensure that the customer has physically appeared before him and such statement shall be duly verified by the compliance officer of the brokerage house. The Inspection Team observed that aforesaid requirements i.e. statement by Authorized Person and verification of the same by Compliance Officer, were not found with randomly selected account opening form.

The Respondent informed that *"the shortcomings of the Inspection Team have been rectified and now it is in compliance with the KYC requirement"*.

- h) **Discretionary trade facility /option:-** The Inspection team noted that the Respondent did not submit list of clients who have given explicit authorization to trade on their behalf, required to be maintained pursuant to Circular # CRO/10/2013 dated March 14, 2013,.

The Respondent acknowledged the observation of the Inspection Team and assured compliance with the requirement in the future.

- i) **Registration of Authorized Persons:-** The Inspection Team sought list of employees who had access to electronic trading system (ETS) through the 4 USB Keys issued by PMEX to the Respondent. The Inspection Team observed that one USB Key was in the name of Respondent while the remaining USB Keys were in the name of its employees who were not registered with PMEX.

The Respondent has informed that the observation of the Inspection Team has been rectified and it has registered its authorized persons with PMEX.

8. I have reviewed the observations of the Inspection Team and comments and documentary evidences provided by the Respondent. It appears from the foregoing that the Respondent has accepted all the observations of the Inspection Team except the observation regarding execution of trade outside the exchange. Concerning the admitted irregularities, the Respondent has stated that the same have been rectified and assured compliance with the regulatory framework in future. With regard to the violation i.e. "execution of trade outside of the exchange", the Inspection Team did not report any instances of the same. However, they referred to the Order dated October 4, 2006 passed in original jurisdiction by then Director (SMD) against HTI and Order dated August 4, 2015 passed by the Appellate Bench in the matter of Appeal filed by HTI against the above order. It is pertinent to mention here that the under reference Notice has been issued to the Respondent and not to HTI. Since the Inspection Team did not report any instance where the Respondent traded outside the exchange, therefore, the Respondent cannot be held responsible for any violation. The Respondent and the HTI are two different legal entities, therefore, Respondent cannot be held liable for illegal acts, if any, committed by HTI. In view of the above, no action is warranted against the Respondent with regard to execution of trade outside of the exchange. Further, the Order dated October 4, 2006 against HTI has reached its finality and if there is any fresh recurrence of the violation, necessary action would be taken against HTI by initiating fresh proceedings.



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9. Based on the foregoing discussion and the assurance by the Respondent to comply with the regulatory framework in letter and spirit in future, I am not imposing any penalty on the Respondent. However, the Respondent is warned to ensure strict compliance of regulatory framework in letter and spirit in future.

10. This Order is being issued without prejudice to any other action that the Commission may initiate against the Respondent in accordance with the law on matter subsequently investigated or otherwise brought to the knowledge of the Commission.



Asif Jafar Bhatti

Executive Director (PRPD)

Islamabad.

Announced on July 21, 2016