



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

Before

Mr. Shahzad Afzal Khan, Director/Head of Department (Adjudication-I)

In the matter of

DADEX ETERNIT LIMITED

Show Cause Notice No. & Issue Date:	No. 2(409)SMD/Adj-1/2391 dated January 16, 2023
Date(s) of Hearing:	July 05, 2023
Present at the Hearings: Representing the Respondent	i) Mr. Muhammad Yousuf, Company Secretary ii) Miss Umrana Patel, Executive Director iii) Yousuf Adil, Chartered Accountants

ORDER

UNDER SECTION 107 OF THE SECURITIES ACT, 2015 AND REGULATION 5 OF THE REPORTING AND DISCLOSURE OF (SHAREHOLDING BY DIRECTORS, EXECUTIVE OFFICERS AND SUBSTANTIAL SHAREHOLDERS) REGULATIONS, 2015 READ WITH SECTION 106 OF THE SECURITIES ACT, 2015

This Order shall dispose of the proceedings initiated against the Dadex Eternit Limited (**the Company and/or the Respondent**) through Show Cause Notice No. 2(409)SMD/Adj-1/2023/2391 dated January 16, 2023 (**the SCN**) for its alleged failure to comply with the requirements of Section 107 of the Securities Act, 2015 (**the Act**) and Regulation 5 of the Reporting and Disclosure of (Shareholding by Directors, Executive Officers and Substantial Shareholders) Regulations, 2015 (**the Regulations**).

2. Brief facts of the case are that:

(i) the Annual General Meeting (AGM) of the Company was held on November 26, 2021;

(ii) the Company had failed to file its annual returns with the Securities and Exchange Commission of Pakistan (**the Commission**) for the year ended June 30, 2021 in terms of Section 107 of the Act read with Regulation 5 of the Regulations;

(iii) subsequently, the Company vide its letter dated December 29, 2022 filed the required annual returns for the year ended June 30, 2021 with the delay of 345 days; and





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(iv) the Company by not filing the required annual returns within the specified time frame i.e. *within 45 days from the date of the annual general meeting held in the year, prima facie*, has contravened the provisions of Section 107 of the Act read with Regulation 5 of the Regulations.

3. Relevant provisions of the law are reproduced as under:

Section 107 of the Act:

107. Notification to the Commission of prescribed information: - (1) *Every listed company, once in each year, prepare in the prescribed manner and file with the Commission a return containing the prescribed information.*

(2) The return referred to in sub-section (1) shall be filed with the Commission within forty five days from the date of the annual general meeting held in the year or, where no such meeting is held or if held is not concluded, from the last day of the calendar year to which it relates.

Regulations 5 (1) (a) (b) and (2) of the Regulations:

5. Annual Return to be filed the Commission:-(1) *Every listed company shall once in each year in accordance with section 107 of the Act: -*

(a) prepare and file online the following information as per detail given in e services Process of the Commission titled as Annual Return by listed companies SMD-BO-107

- i) Issuer company information;*
- ii) Particulars of each director, executive officer and substantial shareholder of the issuer company and their beneficial ownership;*
- iii) Particulars of dependents i.e. spouse, minor children and other dependent relatives of each director, executive officer and substantial shareholder and their beneficial ownership.*
- iv) Particulars of private companies where each director, executive officer and substantial shareholder is shareholder, but the private company holds less than ten percent shareholding in the issuer company;*
- v) Particulars of associated companies;*
- vi) Details of trades carried out by each director, executive officer and substantial shareholder during the period from previous annual general meeting to present annual general meeting; and*
- vii) Summary of shareholding;*

(b) Prepare and file a Soft copy of list of members (Physical Shareholders and Central depository



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Account holders) in MS Excel in accordance with the format and instructions given at the bottom of the aforesaid e-Services Process.

(2) Every listed company is required to file the information prescribed in sub-regulation (1) with the Commission within 45 days from the date of the annual general meeting held in the year or if held but not concluded, from the last day of the calendar year to which it relates.

Section 106 of the Act:

106. Directive by the Commission.

(1). ...

(2) where any person who contravenes or fails to comply with any provision of sections 101, 102, 103, 104, 105 and 107, the Commission may by order in writing direct: -

(a)

(b) in the case of a company, the company and its every director or officer who is knowingly and willfully in default, to pay by way of penalty to the Commission such amount which may extend to five hundred thousand rupees and to a further amount which may extend to one thousand rupees per day for every day during which the default continues.

4. From the above, it is appeared that the Respondent has contravened Regulations 5 (1)(a) (b) and (2) of the Regulations. The said contravention attracted applicability of the aforesaid legal provisions. While taking cognizance of the aforesaid contravention, the SCN was served upon the Respondent requiring it to submit written reply within fourteen (14) days of the date of the SCN. In response to the SCN, the Respondent vide letter dated January 24, 2023 inter alia, submitted as under:

“.....

- ii.we would like to draw your kind attention towards some of the issues which the Company is facing. First and foremost is the financial issue, which further aggravated owing to the political uncertainty, Covid Crisis, the Ukrainian war, the FX crisis, and the present economic situation of the country.
- iii. Due to the above impact, the key management staff had left the company during the year 2021, including the company secretary. The management was well aware of this and filled the statutory position of company secretary.
- iv. The management has cognizance of that fact that we have delayed the statutory compliance of SMD-BO annual return for the year 2021 and had not filed the required returns within a specified time, i.e. 45 days from the date of AGM held on 26th November 2021, which prima



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facie has violated the provisions of Section 107 of the Securities Act 2015 read with Regulation No. 5 of the Reporting and Disclosure of (Shareholding by Directors, Executive Officers and Substantial Shareholders) Regulation 2015.

- v. *You may be pleased to learn that there was no attempt to conceal facts behind this. By analyzing the Shareholding Pattern in the Annual Report 2021 and Annual Report 2022, where it may be concluded that the shareholding of the executive directors, board of directors, their spouses and minor children, and beneficial ownership remain unchanged, including the shareholding of the associated company of Dadex Eternit Limited. Please find enclosed herewith copies of the same for your reference.*
- vi. *Moreover, it also transpired that the company had made its statutory obligations during the year and filed relevant forms/ returns (annual / half yearly/ quarterly, From-A and other statutory forms) to the Commission and CRO- Karachi Office as and when it was obligated. This includes the filing of SMD-BO return for the year ended 30th June 2021. However, this was not filed within the stipulated time limit.*
- vii. *While, immediately following our knowledge of the mistake, the management of the Company filed the requisite Form i.e., SMD-BO Return 2021, which demonstrated that there was no ulterior motive in non-filing under section 107 of the Securities Act 2015 and non-observance of this provision was the result of a genuine mistake.*
- viii. *The delay of SMD-BO Form 2021 was neither willful nor it done knowingly, therefore, the same may kindly be condoned.*

Considering the foregoing, we respectfully requested, please take a lenient view and may kindly condone the possible penalties imposed under section 106 of Securities Act 2015. We assure you that we will act prudently and ensure meticulous compliance in accordance with the applicable laws and regulations of the Commission.

Hence, it is requested that this written submission may please be considered favorably, and our case is looked at leniently, especially in view of the difficult financial situation of the country, which is putting even more pressure on the company and that notice may be withdrawn. We will remain available if additional information is required to your good-office....”

5. Subsequent, the Respondent vide letter dated May 12, 2023 submitted as under:



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“

we would like to inform your good office that due to political uncertainties and economic situation in the Country, the Company has been facing / suffering financial challenges which resulted in huge / high turnover in the key management staff including the position of a Company Secretary during the year 2021. As a result, the delay in filing of the Annual Return SMD-BO-107 for the year 2021 had occurred by the Company under section 107 of the Securities Act, 2015. However, as soon as the non-submission was realized, the required Return SMD-BO-107 was filed by the Company, which confirms that there was no intention of concealing any fact by the management of the Company. The delay in filing of the said Form occurred due to genuine oversight.

It is also pertinent to note that submission of other obligatory documents including quarterly / half yearly / annual accounts, Form - A and other statutory forms during the financial year 2021, were submitted by the Company within the prescribed time under the provisions of the Companies Act, 2017. You will appreciate from this fact that the Company never intended to skip compliances under the law.

In view of the above explanation / clarification, you are humbly requested to please take lenient view on the delayed submission and the penalties on delay under Section 106 of the Securities Act, 2015 may please be condoned. Hope our request would be acceded to.

We further assure you that such delay will not occur in future and the Company will act prudently to ensure meticulous compliance in accordance with the applicable laws and regulations.

We remain available for any additional information is desired by your good office.

.....”

6. In order to provide the Respondent opportunity of personal representation, the hearing in the matter was fixed for July 05, 2023. The hearing was attended by Mr. Muhammad Yousuf (Company Secretary), Miss Umrana Patel (Executive Director) and Mr. Yousuf Adil (Chartered Accountants) as authorized representatives of the Respondent (the Representatives). During the hearing proceedings, the Representatives admitted the violation of law and reiterated the written argument earlier submitted in response to the SCN.

7. Before proceeding to decide this case, I consider it necessary to highlight the importance of the strict observance of the mandatory provisions of law. Filing of annual returns as mentioned in Para 3 above with the Commission is crucial to demonstrate compliance, ensure transparency, facilitate monitoring and oversight, and meet legal obligations. It serves as a vital tool for maintaining regulatory control, promoting



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accountability, and safeguarding the interests of stakeholders and the public. However, it has been noted that the Company has failed to comply with the mandatory requirements of law and has not submitted the above-mentioned annual returns to the Commission within the prescribed time.

8. I have gone through the facts of the case and considered both written as well as verbal submissions of the Representatives in light of the applicable provisions of the law and the available record and have noted that the Respondent has admitted the violation of the law. Therefore, it is established that the Respondent did not ensure compliance with Section 107 of the Act and Regulation 5 of the Regulations. However, considering the fact that as soon as the non-submission was realized by the Respondent, the required Return SMD-BO-107 was filed by the Respondent, which reflects rectifying measures undertaken by the Respondent.

9. In view of the above-stated facts and circumstances and submissions made by the Respondent, I, in exercise of the powers conferred upon me under Section 106(2)(b) of the Act, impose penalty of **Rs.10,000/- (Rupees Ten Thousand Only)** on the Respondent.

10. The Respondent is advised to meticulously adhere to all applicable Laws, Rules, Regulations and Directions etc. notified/issued from time to time in true letter and spirit at all times.

11. This Order is issued without prejudice to any other action that the Commission may initiate against the Respondent or its Shareholder(s) / Director(s) in accordance with the law(s) on matter subsequently investigated or otherwise brought to the knowledge of the Commission.



(Shahzad Afzal Khan)
Director\ Head of Department
(Adjudication Department-I)

Announced:
July 14, 2023
Islamabad