



Securities and Exchange Commission of Pakistan

Adjudication Division
Adjudication Department-I

Before Ali Azeem Ikram, Executive Director/HOD (Adjudication-I)

In the matter of Show Cause Notice issued to BMA Capital Management Limited

Dates of Hearing

December 28, 2020

Order-Redacted Version

Order dated January 08, 2021 was passed by Executive Director/Head of Department (Adjudication-I) in the matter of BMA Capital Management Limited. Relevant details are given as hereunder:

Nature	Details
1. Date of Action	Show cause notice dated May 21, 2020
2. Name of Company	BMA Capital Management Limited
3. Name of Individual*	The proceedings were initiated against the Company i.e. BMA Capital Management Limited and its Compliance Officer
4. Nature of Offence	In view of alleged violations of 4(a), 18(c)(iii), 6(3)(c), 6(4), 11 (2), 13(I) and 13(7) of AML Regulations through SCN dated May 21, 2020 and order dated January 08, 2021 was passed.
5. Action Taken	<p>Key findings were reported in the following manner:</p> <p>I have gone through the fact of case, the written as well as oral submissions of the Respondent and its Authorized Representatives. In this regard, I observe that:</p> <p>i. The Respondent vide its letter dated January 02, 2020 submitted the following to The Commission:</p> <p>"We are currently in the process of redesigning our Risk Assessment and Risk Management Policies which should be completed by the mid of February, 2020. The issues identified by the JIT will be addressed therein and a copy of the said manual shall be shared for your perusal"</p>



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(Underlined for emphasis)

The above mentioned response of Respondent depicts that Respondent AML policy was deficient at the time of inspection. Furthermore, the extract of minutes of Board of meeting reflects that Board of Directors of Respondent approved updated AML Policy on February 18, 2020 only to incorporate the newly introduced requirements of National Risk Assessment (NRA). The Respondent cannot absolve himself on the basis of post-inspection rectification of default. Thus, Respondent was in contravention of Regulation 4(a) of the AML Regulations on account of deficient AML policy at the time of Inspection.

- ii. The defaults of Regulation 18(c)(iii) were consequential to the default of Regulation 4(a) of the AML Regulations. Therefore, Respondent and its Compliance Officer has contravened Regulation 18 (c) (iii) of the AML Regulations.
- iii. In response to Letter of Findings, regarding compliance of Regulation 6(3)(c) in three identified instances, the Authorized Representative submitted that in case of one instance requisite information/document has been obtained and in respect of other two instances Respondent is perusing identified clients regarding their respective source of income/funds. The Respondent's response shows that at the time of Inspection, the Respondent was not in possession of required information/documents which were necessary to ensure compliance of Regulation 6(3)(c) of the AML Regulations. During the hearing Authorized representatives could not exhibit pre-inspection efforts on part of Respondent to comply Regulation 6(3)(c) of the AML Regulations.



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	<p>iv. With regard to the violation of Regulation 6(4) of the AML Regulations, regarding sixteen instances, it has been noted from the submitted evidence that verifications of Identification documents (CNIC) were made on January 16, 2020 i.e subsequent to identification by Inspection team. Thus, Respondent was in contravention of Regulation 6(4) of the AML Regulations at the time of inspection.</p> <p>v. In response to the LOF, the Respondent informed that the evidence of recording for categorizing five clients as low risk were enclosed, however, the inspection team reiterated that no such evidence were ever provided by the Respondent. During the hearing, the authorized representatives informed that they have system-based comments for all risk categories. The same was. not available with account opening form therefore, the observation was raised. However, this information is now available in system. Therefore, the Respondent cannot deny from the non-compliance of the Regulation 11 (2) of the AML Regulations.</p> <p>vi. In response to LOF, show cause notice and further during the hearing, the authorized representatives of the Respondent could not exhibit evidence to substantiate that prior to Inspection, Respondent was in compliant with the requirements of Regulations 13(1) and 13(7) of AML Regulations. Thus, the non-compliance of above referred Regulations cannot be denied by the Respondent.</p> <p>vii. The available record revealed that prior to Inspection by the Commission, a Review by the Commission as well as an Inspection by Joint Inspection Team (JIT) was also conducted to ascertain compliance of AML Regulations by the Respondent. The above-mentioned non-compliances by the Respondent, reflects that</p>
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	<p>Respondent has failed to improve its compliance status with regard to AML regulatory framework despite repeated intervention by the regulatory authorities.</p> <p>In view of the foregoing and admission made by the Representatives, contraventions of the provisions of Regulations 4(a), 18(c)(iii), 6(3)(c), 6(4), 11 (2), 13(I) and 13(7) of AML Regulations have been established. Therefore, in terms of powers conferred under section 40A of the Act, a penalty of Rs.900,000/- (Rupees Nine Hundred Thousand Only) is hereby imposed on the BMA Capital Management Limited. However, in reference to Regulation 18 (c) (iii) Compliance officer of the BMA Capital Management Limited is warned to be careful in future. The BMA Capital Management Limited is advised to examine its AML/CFT policy & procedures to ensure that the requirements contained in the AML Regulations are met in letter and spirit.</p> <p>Penalty order dated January 8, 2021 was passed by Executive Director (Adjudication-I).</p>
6. Penalty Imposed	A Penalty of Rs. 900,000/- (Rupees Nine Hundred Thousand Only) was imposed on respondents to ensure compliance of law in future.
7. Current Status of Order	Appeal has been filed by the respondents

Redacted version issued for placement on website of the Commission.