



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

ORDER	
Name of Company:	M/s Cashew Financial Services Limited
Show Cause Notice No. & Date:	No. SECP/SCD/Adj-I/Cashew Fin/60/2022-320 dated February 10, 2025
Respondents:	(i) Mr. Ammar Afif, Director/ CEO; (ii) Ms. Atifa Arif Dar, Director; (iii) Syed Zahoor Hassan, Director; (iv) Syed Hashim Mahmood Ali, Director; (v) Mr. Shaheen Amin, Director; (vi) Mr. Raheel Qamar Ahmad, Director; (vii) Mr. Moeed Qamar, Director; and (viii) M/s Cashew Financial Services Limited
Date(s) of Hearing(s):	(i) March 10, 2025 (ii) March 17, 2025 (iii) March 27, 2025
Case represented by:	(i) Syed Hashim Mahmood Ali – Director; and (ii) Mr. Ashbeel Ejaz – Business Strategy Manager [Representing Respondent No. (i), (iv) and (viii)]
Provision of law involved:	Section 282J (1) of the Companies Ordinance, 1984 for Contravention of Rule 7(1)(da) read with Schedule-I of the Non-Banking Finance Companies (Establishment and Regulations) Rules, 2003
Date of Order:	April 17, 2025

This Order shall dispose of the proceedings initiated by the Securities and Exchange Commission of Pakistan (the “**Commission**”) through the Show Cause Notice No. SECP/SCD/Adj-I/Cashew Fin/60/2022-320 dated February 10, 2025 (“**SCN**”) against M/s Cashew Financial Services Limited (the “**Company**”) and its Board of Directors (“**BoD**”), hereinafter collectively referred to as the “**Respondents**”, for contravention of the requirements of rule 7(1)(da) and Schedule I of the Non-Banking Finance Companies (Establishment and Regulations) Rules, 2003 (the “**NBFC Rules**”), read with Section 282J (1) of the Companies Ordinance, 1984 (the “**Ordinance**”).

2. The provisions of rule 7(1)(da) read with Clause 7 of Schedule I of the NBFC Rules provide that a NBFC shall furnish to the Commission its annual financial statements in accordance with requirements of Schedule I of the NBFC Rules which in turn refer to the requirements of the Ordinance; now the Companies Act, 2017 (the “**Act**”). The corresponding provisions of the Act set forth the following requirements for the submission of annual audited financial statements:

- (i) Section 223(2) of the Act requires that; “(2) The financial statements must be laid within a period of one hundred and twenty days following the close of financial year of a company”.
- (ii) Section 233(1) of the Act requires that; “(1) Without prejudice to the provisions of sub-section (5) of section 223, after the audited financial statements have been laid before the company at the annual general meeting and duly adopted, a copy of such financial statements together with reports and documents required to be annexed to the same, duly signed in the manner provided by section

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226, 232 and 251, shall be filed by the company with the registrar within thirty days from the date of such meeting in case of a listed company and within fifteen days in case of any other company."

- (iii) Section 132(1) of the Act requires that; "(1) Every Company shall hold, an annual general meeting within sixteen months from the date of its incorporation and thereafter once in every calendar year within a period of one hundred and twenty days following the close of its financial year."

3. Brief facts of the case are that the Company was incorporated on October 06, 2020 as a Private Limited Company under the Companies Act, 2017 (the "Act") and was licensed by the Commission as a Non-Banking Finance Company ("NBFC") under the NBFC Rules on June 22, 2021 to undertake Investment Finance Services, restricted to microfinancing. In terms of aforesaid provisions of the NBFC Rules read with the relevant provisions of the Act, the Company was required to hold its Annual General Meeting ("AGM") within one hundred and twenty days following the close of its financial year and was further required to file its annual audited financial statements for the year ended June 30, 2024 by November 12, 2024. However, the Company failed to file its annual audited financial statements in a timely manner with the Registrar despite grant of thirty (30) days extension vide letter dated November 07, 2024 by the Company Registration Office Lahore ("CRO") allowing them to submit the annual audited financial statements by December 11, 2024, accordingly.

4. In order to probe the matter, the Commission vide email dated December 20, 2024 sought information from the Company in respect of submission of annual audited financial statements. In response, the Company vide email dated December 31, 2024 shared a letter of statutory auditor dated December 27, 2024 stating that *"the annual audit of "Cashew Financial Services Limited" is expected to be completed soon."* Subsequently, the Commission vide emails dated December 31, 2024 and January 28, 2025 advised the Company to share annual audited financial statements or share evidence of extension/ direction if so obtained from CRO in light of letter of statutory auditor. However the Company failed to respond to any of the said emails of the Commission.

5. The aforesaid contraventions indicate that the Respondents, *prima facie*, failed to comply with the requirements of rule 7(1)(da) read with Schedule I of the NBFC Rules, which attracts penal actions under Section 282J (1) of the Ordinance. The relevant provisions of law as applicable are reproduced hereunder:

Rule 7(1)(da) of the NBFC Rules:

"(1) A NBFC shall

(da) furnish to the Commission its quarterly and annual financial statements in accordance with Schedule I"

Section 282J (1) of the Ordinance:

"Penalty for failure, refusal to comply with, or contravention of any provision of this Part.-

(1) Notwithstanding anything contained in any other provision of this Ordinance, if a NBFC or the notified entity or its officers (including auditors) fails or refuses to comply with, or contravenes any provision contained in this Part or of any of the provisions of the rules or regulations made under section 282 B or regulation, circular or directive or any direction or order passed by the Commission under the provisions contained in this Part or knowingly and willfully authorizes or permits such failure, refusal or contravention, shall, in addition to any other liability under this Ordinance, be also punishable with fine the amount of which shall not exceed fifty million rupees:

Provided that if the failure, refusal, default, contravention is committed by NBFC or the notified entity, every director, manager, or other officer or person responsible for the conduct of its affairs shall, unless

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he proves that the failure or contravention or default took place or committed without his knowledge, or that he exercised all diligence to prevent its commission, be deemed to be guilty of the offence."

6. Accordingly, SCN was served upon the Respondents on February 10, 2025 to show the cause in writing as to why a penal action may not be taken against them for non-compliance with the provisions of rule 7(1)(da) of the NBFC Rules. However, no response was submitted by the Respondents. In order to provide an opportunity of being heard to the Respondents, hearings in the matter were fixed for March 07, 2025 and March 17, 2025, which were adjourned upon request of the Respondents. Later the Company vide email dated March 17, 2025 submitted initialed financial statements for the year ended June 30, 2024 and through an even dated letter furnished written response to SCN, *inter-alia*, stating that:

- (i) *Audited financial statements are delayed primarily due to challenges encountered during the transition of auditors as the newly appointed auditors, BDO Ebrahim & Co. faced difficulty in obtaining audit working papers from previous auditors, impeding timely completion of audit;*
- (ii) *New finance personnel were onboarded due to restructuring of the Company, who required time to address auditor's queries. Further audit activity commenced later than anticipated, therefore, audit could not be timely completed despite obtaining extension in holding AGM from the Commission;*
- (iii) *Receipt of audit report and audited financial statements is anticipated in a week's time, thereafter AGM will be held within prescribed time of twenty one (21) days' notice period. Timely compliance of regulatory requirements is assured and a lenient view in the instant matter is requested.*

7. Subsequently, the Company vide email dated March 26, 2025 shared the scanned copy of the audited financial statements, received from the auditor. In order to meet the ends of justice, final hearing was scheduled for March 27, 2025; with a clear advice that no further requests for adjournments will be allowed and in the case of non-appearance an ex-parte order shall be passed. On the date of hearing Syed Hashim Mahmood Ali, Director and Mr. Ashbeel Ejaz, Business Strategy Manager (the "**Representatives**") appeared on behalf of Respondents No. (i), (iv) and (viii), reiterated the written response to SCN and *inter-alia* stated that the audit activity was delayed as the auditor had to conduct audit of last year as well to confirm the opening balances. The Representatives informed extension in holding of AGM was obtained but audit could not be completed and further extension was not granted by the Commission. The Representatives committed to hold AGM by April 30, 2025 as the audit report has been issued by the auditor and the financial statements are finalized.

8. I have gone through the relevant provisions of rule 7(1)(da) of the NBFC Rules and considered the facts of the case, available record of the Company, as well as the verbal submissions of the Representatives. I have also perused Section 282J(1) of the Ordinance, which stipulates penal provisions for contravention of the afore-referred provision of the law. It is observed that in terms of rule 7(1)(da) of the NBFC Rules, every NBFC is required to file its annual audited financial statements within fifteen (15) days of their adoption in the annual general meeting; which, in turn, is required to be held once in every calendar year within a period of one hundred and twenty (120) days following the close of its financial year.

9. The holding of AGMs and filing of audited financial statements in a timely manner is a crucial legal requirement that ensures transparency, accountability, shareholder engagement and provides an accurate reflection of its financial health to all stakeholders. The audited financial statements allow shareholders, creditors, and regulators to assess the financial position of the company, fostering transparency and trust and delays in their filing may create uncertainty, undermine investor confidence and promote accountability within the company. Adhering to legal provisions under the Act is essential for protecting shareholders' rights,

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fostering trust, and promoting good corporate governance. A public interest company must meet its statutory duties to hold AGMs and file audited financial statements with the Registrar, in time, facilitating open communication and feedback from its shareholders. Accordingly, the Respondents were obligated to hold the AGM of the Company for the financial year 2023-24 by November 27, 2024 (i.e. within the granted extension of thirty (30) days) and to file the approved annual audited financial statements with the Registrar by December 11, 2024, which they have clearly failed to do so. The details are tabulated as below:

AGM Due Date as per the Act	Audited Accounts filing Due Date	AGM Actually held on	Audited Accounts Filed on	Filed Audited Accounts Accepted on
November 27, 2024	December 11, 2024	Not Yet	Not Yet	Not Yet

10. It is important to note that the law clearly specifies the timelines and procedure for these actions, therefore, the failure of Respondents to hold the AGM and file the annual audited financial statements in a timely and prescribed manner, as stated above, is a contravention of rule 7(1)(da) read with Schedule I of the NBFC Rules. In a judgment passed by the Appellate Bench of the Commission in the matter of *TRG Pakistan Limited vs. the Securities and Exchange Commission of Pakistan* (2011 CLD 1647), it was, *inter-alia*, held that "Directors of the company were responsible to hold timely Annual General Meeting for providing timely information to its shareholders in order to enable them to consider and approve the significant matters like approval of accounts, appointment of auditors, election of Directors, performance of the company and other important issues relating to the company. It was further held that *Explanations with regard to company's failure to furnish copy of its Annual report and other financial statements of the company to the Commission within the prescribed time as required under R.7(1) of Non-Banking Finance Companies (Establishment and Regulations) Rules, 2003, did not prove that failure or contravention or default took place or was committed without the Directors' knowledge---*"

11. The Representative's argument that filing of audited annual financial statements to the Registrar has been delayed owing to the change of the external auditor and non-availability of working papers of previous auditors does not stand solid grounds. Moreover, the arguments of the Representatives relating to restructuring of the Company and hiring of new finance personnel also do not hold plausibility since the Respondents had a legal and fiduciary responsibility to plan their operations and reporting cycles in compliance with statutory deadlines. Delays indicate lack of robustness in terms of ensuring compliance efficaciously as the Respondents were required to schedule the audit and financial statement preparations well in advance to meet statutory obligations of reporting requirements to ensure desirable transparency and accountability. In the case cited as 2017 CLD 1019, the appellants argued that it was the *responsibility of the chartered accountant which the Company had hired to ensure compliance of relevant provisions of the Ordinance*; however, the non-compliance of the company was not excused and impugned order was rightfully upheld.

12. I am also compelled to note that in the instant matter the Director i.e. Syed Hashim Mahmood Ali along with the Business Strategy Manager i.e. Mr. Ashbeel Ejaz appeared for hearing; where his representation was accepted in respect of his person (as Respondent No. iv), the CEO of the Company (Respondent No. i) and the Company (Respondent No. viii). However, in light of absence of a valid instrument of authority on behalf of Respondents No. (ii), (iii), (v), (vi) and (vii) and their failure to join the hearing proceedings despite provision of multiple hearing opportunities, I am left with no other option except to pass an *ex-parte* order against Respondent No. (ii), (iii), (v), (vi) and (vii) on merits of the case and the records available with this office.

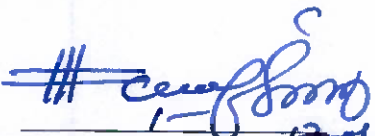
13. In view of the above-stated facts and circumstances, I am of the considered view that by failing to file annual audited financial statements for the year ended June 30, 2024 with the Registrar within the prescribed

timeline, the Respondents have contravened the requirements of rule 7(1)(da) of the NBFC Rules. I, therefore, in exercise of the powers conferred upon me under sub-section (1) of Section 282J of the Ordinance vide S.R.O. 1545(I)/2019 dated December 6, 2019, hereby, conclude the proceedings in the instant matter by imposing an aggregate penalty of **Rs. 90,000/- (Rupees Ninety Thousand Only)** on the Respondents on account of the aforesaid established default in the following manner:

Sr. #	Names	Penalty (Rs.)
1.	M/s Cashew Financial Services Limited	20,000
2.	Mr. Ammar Afif, Director/ CEO	10,000
3.	Ms. Atifa Arif Dar, Director	10,000
4.	Syed Zahoor Hassan, Director	10,000
5.	Syed Hashim Mahmood Ali, Director	10,000
6.	Mr. Shaheen Amin, Director	10,000
7.	Mr. Raheel Qamar Ahmad, Director	10,000
8.	Mr. Moeed Qamar, Director	10,000
Total		90,000

The Respondents are also advised to ensure meticulous compliance of the applicable legal and regulatory framework in future.

14. The Respondents are hereby directed to deposit the afore-mentioned fine in the designated Bank Account maintained in the name of the Securities and Exchange Commission of Pakistan with MCB Bank Limited or United Bank Limited within thirty (30) days of the date of this Order and furnish receipted bank challan to the Commission forthwith. In case of failure to deposit the penalty, the proceedings under Section the proceedings under Section 485 of the Act will be initiated for recovery of the penalty/fines as arrears of land revenue pursuant to provision of Section 42B of the Securities and Exchange Commission of Pakistan Act, 1997 along with initiation of proceedings under Section 282J (5) of the Ordinance.


Sohail Qadri 17-04-2025
 Director/ HOD
 Adjudication Department-I

Announced:

Dated: April 17, 2025

Islamabad