



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

ORDER	
Name of Company:	M/s Al-Abid Silk Mills Limited
Show Cause Notice No. & Date:	No. CSD/ARN/476/2017- 381 dated August 28, 2024
Respondents:	(i) Mr. Azim Ahmed, Chief Executive Officer; (ii) Mr. Naseem A. Sattar, Director; (iii) Mst. Adia Naseem, Director; (iv) Mrs. Sadaf Nadeem, Director; (v) Syed Raza Abbas Jaffari, Director; (vi) Mr. Qamar Mashakoor, Director; (vii) Mr. Muhammad Sajid Hafeez, Director; and (viii) Al-Abid Silk Mills Limited
Date(s) of Hearing(s):	(i) November 22, 2024 (ii) April 22, 2025
Case represented by:	Mr. Azim Ahmed, Chief Executive Officer (As the Authorized Representative)
Provision of law involved:	Section 166(1) of the Companies Act, 2017 (the "Act") read with Section 169 thereof and regulations 6(1) and 27(1) of the Listed Companies (Code of Corporate Governance) Regulations, 2019 (the "CCG Regulations") read with regulation 37 thereof and Section 512(2) of the Act
Date of Order:	April 23, 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. CSD/ARN/476/2017- 381 dated August 28, 2024 ("SCN") against M/s Al-Abid Silk Mills Limited (the "Company") and its Board of Directors ("BoD"), hereinafter collectively referred to as the "Respondents", issued under Section 166(1) read with Section 169 of the Companies Act, 2017 (the "Act") and regulations 6(1) and 27(1) read with regulation 37 of the Listed Companies (Code of Corporate Governance) Regulations, 2019 (the "CCG Regulations") and Section 512 of the Act.

2. The provisions of sub-section (1) of Section 166 of the Act requires that an independent director to be appointed under any law, rules, regulations or code, shall be selected from a data bank containing names, addresses and qualifications of persons who are eligible and willing to act as independent directors, maintained by any institute, body or association, as may be notified by the Commission. Accordingly, the Commission vide S.R.O. 73(I)/2018 dated January 25, 2018 has notified Pakistan Institute of Corporate Governance (the "PICG") as the institute for maintenance of the databank of independent directors. Furthermore, the proviso to sub-section (1) of Section 166 of the Act provides that the company shall exercise due diligence before selecting a person from the PICG's databank as an independent director.

3. Moreover, sub regulation (1) of regulation 6 of the CCG Regulations provides that it is mandatory for each listed company to have at least two or one third members of the Board, whichever is higher, as independent directors. Moreover, regulation 27(1)(i) and (ii) of the CCG Regulations provides that it is mandatory that the Board Audit Committee ("BAC") shall be constituted by the BoD keeping in view the following requirements:

- the Board shall establish an audit committee of at least three members comprising of non-executive directors and at least one independent director; and
- chairman of the committee shall be an independent director, who shall not be the chairman of the Board.

4. The penalty for non-compliance of the aforementioned provisions of Section 166 of the Act attracts a penal action under Section 169 read with Section 479 thereof as whoever contravenes or fails to comply with

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any of the provisions of Section 166 or is a party to the contravention of the said provisions shall be liable to a penalty of level 2 on the standard scale and may also be debarred by the authority which imposes the penalty from becoming or continuing a director of the company for a period not exceeding three years.

5. Moreover, regulation 37 of the CCG Regulations provides that whoever fails or refuses to comply with, or contravenes Regulation 6 and 27 of the CCG Regulations, shall be punishable with penalty as provided under sub-section (2) of Section 512 of the Act, which provides that any regulation made under sub-section (1) may provide that a contravention thereof shall be punishable with a penalty which may extend to five 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.

6. Brief facts of the case are that the review of the Statement of Compliance with the CCG Regulations as annexed with the annual audited financial statements for the year ended June 30, 2023 (the "Accounts") of the Company ("SoC"), revealed that two independent directors namely Mr. Qamar Mashkooor and Mr. Muhammad Sajid Hafeez were elected in the extra-ordinary general meeting held on May 16, 2023 (the "EOGM"). However, both persons were not registered with the databank of independent directors maintained by PICG resultantly failed to comply with primary requirement of registration with the PICG. Accordingly the Company, *prima-facie*, failed to comply with the provisions of Section 166(1) of the Act which attract a penal action under Section 169 of the Act.

7. Furthermore, the Company by not having any Independent Directors on its BoD, due to lack of eligibility of the two elected independent directors, *prima-facie*, also failed to comply with the requirements of regulation 6 of the CCG Regulations. In addition to the aforesaid, it was also observed that Mr. Qamar Mashkooor acted as the Chairman of the BAC which is, *prima-facie*, contrary to the requirements of regulation 27 of the CCG Regulations clearly requiring that an independent director is to be the Chairman of the BAC and any non-compliances of the CCG Regulations, is punishable under regulation 37 of the CCG Regulations read with Section 512 of the Act.

8. In order to probe the matter, the Commission vide letter dated December 26, 2023 advised the Company to clarify its position for appointing independent directors who are not registered with PICG and the composition of BAC. In response the Company vide letter dated January 28, 2024, *inter-alia*, stated that:

"To complete the board, the Company co-opted the directors on January 09, 2023 and consequently the audit committee. After this, only two meetings were held by the audit committee i.e. (quarterly accounts for the quarter ended December 31, 2022 and quarterly accounts for the quarter ended on March 31, 2023)...."

The independent directors have been advised to go with the Director's training program from PICG as required under Section 166(1) of the Act. We will ensure the compliance, please be rest assured."

9. Having being not satisfied with the aforesaid response, SCN was issued to the Respondents to show the cause in writing as to why a penal action may not be taken against them for non-compliance of the requirements of the Act and the mandatory provisions of the CCG Regulations. The Respondents, after obtaining fourteen (14) days extension, submitted response to SCN vide letter dated September 19, 2024, *inter-alia*, submitted that both the independent directors namely Mr. Qamar Mashkooor and Mr. Muhammad Sajid Hafeez have not only been registered with PICG but have also qualified the Directors' Training Program ("DTA") in June 2024 and after compliance with the requirements of Section 166(1) of the Act, the independent directors qualify for BAC in terms of regulation 27(1) of the CCG Regulations.

10. In order to provide an opportunity of being heard to the Respondents, hearing in the matter was fixed for November 22, 2024; which was adjourned upon request of the Respondents. Later, in order to meet the ends of justice, another hearing was fixed on April 22, 2025 which was attended by Mr. Azim Ahmed – CEO on behalf of the Respondents as their authorized representative (the "Authorized Representative"). The Authorized Representative during the hearing admitted the non-compliance with applicable provisions of law, reiterated the response already provided in response to SCN submitted vide letter dated September 19, 2024 and, *inter-alia* stated that:

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- (i) The Company was facing legal problems as criminal cases were filed against it by JS Bank Limited for its willful default, therefore, no one was interested to be elected on board of the Company;
- (ii) All the issues are resolved now and the Company will be starting production during first quarter of FY 2025-26; and
- (iii) Compliance with all the applicable provisions of law including the non-compliance alleged in the SCN, has been made, therefore, a lenient view in the instant matter is requested.

11. I have gone through the relevant provisions of Section 166(1) of the Act, regulation 6(1) and 27(1) of the CCG Regulations and considered the facts of the case along with the available record of the Company as well as written and verbal submissions of the Respondents. I have also perused regulation 37 of the CCG Regulations along with Sections 169 and 512(2) of the Act, which stipulates penal provisions for contravention of the afore-referred provisions of law. It is observed that inclusion of independent directors in the Board enhances the transparency, accountability and governance structure. It also ensures that the board has a diverse range of perspectives, particularly from individuals not directly tied to the company's management or major shareholders which helps to safeguard against potential conflicts of interest and fosters objective decision-making. Inclusion of independent directors is a key element in boosting investor confidence and independent directors are likely to provide oversight that is crucial for protecting minority shareholders and promoting corporate responsibility.

12. The significance of selecting independent directors from the PICG databank under sub-section (1) of Section 166 of the Act and maintaining the minimum number of Independent Directors in line with regulation 6 of the CCG Regulations is paramount in upholding the standards of corporate governance and regulatory compliance. This requirement ensures that independent directors are not only qualified and experienced but also are duly vetted for their eligibility and independence. By adhering to this mandate, companies demonstrate a commitment to transparency and accountability, which are critical for maintaining stakeholder trust and confidence.

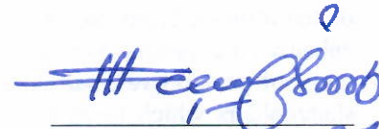
13. In a judgment passed by the Appellate Bench of the Commission in the matter of *Tandlianwala Sugar Mills Limited vs. Director/HoD Adjudication-I* (Appeal No. 85 of 2022), it was held that "Regulation 6 of the Listed Companies (Code of Corporate Governance) Regulations, 2019 makes it incumbent upon a listed company to appoint independent directors. The use of word "mandatory" in regulation leaves no room for any ambiguity that the Legislative Intent behind the said provision is to have independent directors on the board of a listed company." Similarly wisdom on the matter can also be borrowed from 2022 PLC (CS) 1035 of 2022 Islamabad where it was held that "...Legislative intent in S. 166 of Companies Act, 2017 and R. 3(4) of Public Sector Companies (Corporate Governance) Rules, 2013, is to ensure managerial/administrative independence of such Corporation so that they operate through their Board and not by direct intervention of Federal Government---Concept of managerial independence inculcated in Public Sector Companies (Corporate Governance) Rules, 2013, reflects that majority of directors of Board of directors are to be independent directors to maintain balance amongst nominee directors of Federal Government, who are working on instructions or will of Federal Government, whereas independent directors have their own views through which balance has to be maintained amongst the Board for their future business decisions to run Corporation/public sector companies in the best of their ability---"

14. Regulation 27(1)(i) and (ii) of the CCG Regulations requires that the Audit Committee of a listed company shall be composed solely of non-executive directors, with at least one independent director and also the chairman of the committee shall be an independent director. The purpose of this requirement is to ensure that the committee maintains independence and objectivity, providing effective oversight of the company's financial reporting and internal controls. However, the Company included Mr. Qamar Mashkoor, as a member and Chairman of the Committee. Accordingly, his inclusion not only compromised the independence of the committee but also diluted its impact as an independent forum reviewing the critical areas of the audit and compliance; thereby contravening regulation 27(1)(i) & (ii) of the CCG Regulations.

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15. It is important to observe that both the elected independent directors namely Mr. Qamar Mashkoo and Mr. Muhammad Sajid Hafeez completed DTA in June 2024 and were subsequently registered with the databank of independent directors maintained by PICG. However it is observed that subsequent compliance of the given requirements of the Act and the CCG Regulations, although have been given due weightage, but does not exonerate the Respondents from their primary responsibility of appointing only eligible persons as independent directors. Moreover, it is also observed that the argument of the Authorized Representative that the Company was undergoing criminal proceedings in the Court of law is not relevant in the subject case.

16. In view of the above, the aforesaid contravention with the requirements of Section 166 of the Act and regulations 6 and 27 of the CCG Regulations at relevant point in time have been established beyond doubt and the same have been admitted by the Respondents which attract penal actions in terms of Section 169 of the Act along with Regulation 37 of the CCG Regulations read with Section 512(2) of the Act. I have also considered the fact that the Respondent, before the issuance of SCN, have complied the aforesaid provisions of the Act and the CCG Regulations. I, therefore, in exercise of the powers conferred upon me under Section 169 read with Section 479 and Section 512(2) of the Act read with SRO 1545(I)/2019 dated December 06, 2019, hereby, conclude the proceedings initiated through SCN with a strict **Warning** to the Respondents and advise them to ensure meticulous compliance of applicable legal and regulatory framework in future.


Sohail Qadri 23-04-2025
Director/ HOD
Adjudication Department-I

Announced:

Dated: April 23, 2025

Islamabad