



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

Through Courier

Before the Director/HOD

In the matter of Show Cause Notice issued to AKD Securities Limited

Date of Latest Hearing	June 28, 2021
Present at the Hearing	i. Mr. Muhammad Farid Alam (Chief Executive Officer)
Representing AKD Securities Limited	ii. Mr. Naveed Anjum (Head of Compliance)
	iii. Mudassir Ijaz (Manager Compliance)

ORDER

This Order shall dispose of the proceedings initiated against the AKD Securities Limited (**the Respondent**) through Show Cause Notice No. 1(164)SMD/Adj-1/Khi/2019-1022, dated April 26, 2021 (**the SCN**) under Section 40A of the Securities and Exchange Commission of Pakistan Act 1997 (**the Act**).

2. Brief facts of the case are as follows:

- The Respondent is a Trading Rights Entitlement Certificate (**TREC**) holder of the Pakistan Stock Exchange Limited (the PSX) and licensed as a Securities Broker under the Securities Act, 2015.
- Review (**the Review**) of the Respondent was conducted by the Securities and Exchange Commission of Pakistan (**the Commission**) to ascertain compliance with requirements contained in the Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 (**the AML Regulations**). The Commission vide letter dated December 11, 2020 advised the Respondent to furnish its comments on highlighted non-compliances latest by December 16, 2020. However, the Respondent on December 17, 2020 requested extension in time period for submission of its reply till December 21, 2020. However, the Respondent did not submit its response as committed above, therefore, reminder was issued and then the Respondent submitted its reply on December 22, 2020.

3. During the Review certain non-compliances were observed with the AML Regulations which are given as under:

- regulation 6(3)(a) of the AML Regulations requires a securities broker is required to identify the customer or beneficial owner and verify the customer's/ beneficial owner's identity on the basis of the documents, data or information obtained from the customer and/ or from reliable and independent sources. Regulation 6(3)(c) of the AML Regulations requires a securities broker

[Signature]





Securities and Exchange Commission of Pakistan

Adjudication Division
Adjudication Department 1

to perform Customer Due Diligence (CDD) by monitoring of accounts/ transactions on ongoing basis to ensure that the transactions being conducted are consistent with the regulated person's knowledge of the customer, the customer's business and risk profile, including, the source of funds and, updating records and data/ information to take prompt action when there is material departure from usual and expected activity through regular matching with information already available with the regulated person.


Regulation 13(1) of the AML Regulations stipulates that all business relations with the customers shall be monitored on an ongoing basis to ensure that the transactions are consistent with the regulated person's knowledge of the customer, its business and risk profile and where appropriate, the sources of funds.

Regulation 13(2) of the AML Regulations stipulates that regulated person shall obtain information and examine, as far as possible the background and purpose of all complex and unusual transactions, which have no apparent economic or visible lawful purpose and the background and purpose of these transactions shall be inquired and findings shall be documented with a view of making this information available to the relevant competent authorities when required.

Regulation 13(3) of the AML Regulations requires a regulated person to periodically review adequacy of the customer information obtained in respect of the customers and beneficial owners and ensure that the information is kept up to date, particularly for higher risk categories of the customers and the review period and procedures thereof should be defined by the regulated person in their AML/ CFT policies, as per risk-based approach.

It was transpired in the Review that in **three instances**, the Respondent had failed to; (i) identify the actual beneficiary owner(s) of these accounts; and (ii) conduct proper due diligence and ongoing monitoring. This failure on part of the Respondent is violation of the aforesaid provisions of the AML Regulations.

ii) Regulation 6(3)(c) of the AML Regulations requires a Securities Broker to perform CDD by monitoring accounts/ transactions of their customers on ongoing basis to ensure that the transactions being conducted are consistent with the regulated person's knowledge of the customer, the customer's business and risk profile, including, the source of funds and, updating records and data/ information to take prompt action when there is any material departure from usual and expected activity through regular matching with information already available with the regulated person.

Regulation 6(4) of the AML Regulations stipulates that regulated person shall obtain such documents from different types of customers as provided in Annexure-I. 





Securities and Exchange Commission of Pakistan

Adjudication Division
Adjudication Department 1

It was transpired, during the Review, that in **five instances**, the Respondent did not provide any evidence, which exhibits that the Respondent was fulfilling the requirements contained in the aforesaid regulations 6(3)(c) and 6(4) of the AML Regulations. We understand that by not obtaining the said requisite documents/ information from the clients is violation of the aforesaid regulations of the AML Regulations.

4. From the above, it was observed that the Respondent, *prima facie*, has contravened the AML Regulations. Accordingly, the Commission while taking cognizance of the aforementioned facts served the SCN requiring the Respondent to submit written reply within 14 days of the date of the SCN. In response to the SCN, the Respondent vide letter dated June 25, 2021 submitted that:

"At the outset, it is submitted that we had thoroughly and in sufficient detail responded to your notice no. BCD-SMD/AML(AKD-Securities)//2020/2307 dated 11 December 2020 by way of our response dated 22 December 2020. In our reply, we have already responded to, both factually and legally, to the alleged violations highlighted by you in the instant show cause notice.

In this regard, we are pleased to submit our para-wise response against the observations raised in the show cause notice and the same are detailed for below, however, we reserve our right to advance further arguments at the time of hearing, where necessary, in support of our responses provided below;

1. In paragraph 3(i) of the SCN, you have highlighted Regulation 6(3(a), 6(3(c), 13(1), 13(2) and 13(3) of the AML Regulations as under:

a) In this regard, it is submitted that due diligence is conducted for every customer at the time of account opening to determine the source of funds/source of income. The customer's trading transactions are regularly monitored on the basis of trading limits which are assigned as per Client's financial profile/source of funds; and further information is sought periodically as and when needed, if client's investment activities do not match with the client's known financial profile.

Further, you may appreciate that AKDSL understands the grave seriousness of money laundering and ensures that all cash transactions exceeding Rs. 25,000/- are duly reported to the Pakistan Stock Exchange ("PSX") as required by Regulation 4.23 of PSX Regulations,

In this respect you are informed that when the trading account size of the Client increased and unusual cash deposits transactions were highlighted by our control system, we sought information in respect of the same and, more specifically in relation to the source of funds for cash desposits from the Clients. The Clients has provided the Wealth Statements filed with Federal Board of Revenue (FBR) as Source of income. However, the provided information did not substantiate the account size and/or the background and purpose of





Securities and Exchange Commission of Pakistan

Adjudication Division
Adjudication Department 1

cash transactions. Upon follow up of the clients for further information, we were informed by the clients that they are out of city due to some emergent reasons and the sufficient documents/information justifying the lawful transactions will be provided very soon. The delay in the provision of required information/record after repeated efforts to contact the clients raised the concern and some suspicion. The Compliance Officer, after due further investigation and analysis of the reported transactions in the light of available information including source of income / funds, could not vindicate the suspicions associated with the transactions and the identification of actual beneficiary of the funds. Accordingly, the said transactions were reported to Financial Monitoring Unit as Suspicious transactions and their trading accounts have also been suspended. It is therefore submitted that we undertook all requisite procedures and methods required to be undertaken under the law and have therefore committed no violation, willful or otherwise of the provisions of the law.

2. In paragraph 3(ii) of the SCN, you have highlighted Regulation 6(3)(c) and 6(4) of the AML Regulations as under:

In this regard, it is submitted that all our customers are regularly approached and followed up for pending information and the customer profile is updated accordingly on the basis of such information / data received.

----- (Client 1)

With respect to the client, we confirm that the Occupation status of the client has been properly documented in the KYC/CDD checklist, copy of which has already been provided along with AOF set.

Proof of business was duly verified during due diligence process including by checking the NTN verification process confirming his occupation as Business.

Basic due diligence procedures were performed and client was regularly approached and followed up for pending information and the customer profile is updated accordingly on the basis of such information / data received and the customer's account size was within the range of his documented financial profile.

----- (Client 2)

In this regard, we submit that the trading account in question was opened during the year 2008 when there were no applicable rules and regulations in respect of KYC and CDD of the customers requiring attested copy of service card or certificate or letter from employer and risk assessment form. You may appreciate that KYC and CDD requirement was first time notified in the form of "Explanatory Note/Commentary on Know Your Customer and Customer Due Diligence Guidelines" through KSE Notice No. KSE/N-388 dated March 16, 2012 ("KYC/CDD Guidelines").

Further, KYC was also filled back in 2010 when there was no such requirement to do so. From time to time after the promulgation of the AML/CFT Regulations we have strived

A.





Securities and Exchange Commission of Pakistan

Adjudication Division
Adjudication Department 1

to collect and update the requisite information required under Regulation 6 of the AML/CFT Regulations for all our customers who have been associated with us prior to 2018. During the on-going monitoring, it was highlighted that the trading account size of the Client increased, we sought information in respect of the same, more specifically in relation to the source of funds, from the Client and the client provided us with updated Wealth Statement filed with FBR.

------(Client 3)

The client wise detail of instances were identified vide email dated 31 May 2021 in response to our request through email dated 28 May 2021.

With respect to this client, you may appreciate that no observation has been reported in the review letter No. BCD-SMD/AML (AKD) / 2020 /2307 dated 11 December 2020.

------(Client 4)

In relation to the same, it is submitted that as per the approved policies of AKDSL, Wealth Statement/ Tax Return filed with Federal Board of Revenue by the customer is duly considered as appropriate and sufficient evidence of source of income and net worth and therefore there is no violation of Regulation 6(3) of the AML/CFT Regulations

------(Client 5)

In response to Mr. -----'s monitoring of transactions, it is submitted that he has provided the details of his bank account maintained with a local Pakistani bank. However, the cash has been directly deposited by the client into his account through his relative etc. and was duly monitored and categorized as unsuspicious. "

5. The Respondent was provided opportunity of personal representation. Hearing in the matter was fixed for June 28, 2021. The hearing was attended by Mr. Muhammad Farid Alam (Chief Executive Officer); Mr. Naveed Anjum (Head of Compliance); and Mr. Mudassir Ijaz (Manager Compliance) as authorized representatives (**the Representatives**) of the Respondent. During the hearing proceedings, the Representatives reiterated the argument earlier submitted in response to the SCN. Subsequent to the hearing, the Respondent vide email dated June 29, 2021 submitted in ~~writing~~ the following:

"This is with reference to Hearing conducted at 28 June 2021 at 12:00 PM through Zoom wherein we were advised to submit certain documents. In this regard, we had telephonic conversation with ----, Adjudication Department 1, for confirming the required documents to submit, which are attached for reference:

- Account Opening Form (AOF) of -----
- KYC/CDD Checklist and Senior Management Approval (for High Risk Client) of -----
- Emails sent to clients to discourage Cash Deposits

Further, during the hearing session, the Adjudication panel were briefed about our future strategy to implant Digital Compliance Tool which is designed specifically to cover all AML requirements. The Digital Compliance Tool will be capable to trigger all the non-compliances under applicable regulatory

9





Securities and Exchange Commission of Pakistan

Adjudication Division
Adjudication Department 1

framework. All these efforts and investment shows the very willingness and commitment of the higher management of the Company to ensure the regulatory environment.

In view of our submitted response dated 25 June 2021, explanations provided during Hearing session and documents hereby provided, we request that the SCN may be withdrawn by taking a lenient view."

6. I have reviewed the available record, written as well as verbal submissions of the Respondent and its Representatives and observed that:

(i) with regard to the alleged violation of regulations 6(3)(a), 6(3)(c), 13(1), 13(2) and 13(3) of the AML Regulations, in **three instances**, the Respondent could not substantiate that it was in compliance of the aforesaid regulations at the time of Review. The considerable mismatch/ divergence of respective tax returns/ disclosed source of income with the actual custody/ trading/ investment/ cash transactions in case of identified clients was not denied by the Respondent. Without ascertaining the customer's/ beneficial owner's identity and source of funds/ income, enforcement of compliance of regulations 6(3)(a), 6(3)(c), 13(1), 13(2) and 13(3) of the AML Regulations cannot be possible. Thus, non-compliance of the aforesaid regulations by the Respondent on account of its failure to identify the actual beneficiary owner(s) of the identified accounts, failure to conduct proper due diligence and ongoing monitoring, cannot be denied;

(ii) with regard to the violation of regulations 6(3)(c) and 6(4) of the AML Regulations, in **five instances** the Respondent could not exhibit compliance to the Review team:

(a) The occupation status of client "MA" was not clearly reported & documented. Furthermore, no evidence of business/ employment was available with Respondent at the time of Review. Merely photocopy of membership card of KCCI available with the Respondent cannot be construed a source of income. Print date on Tax return provided to the Review team, reflects that same has been acquired subsequent to the Review team's letter dated November 16, 2020.

(b) The requisite documents as per Annexure I read with regulation 6(4), to ascertain occupation of client "AM" were not available with the Respondent at the time of Review. CDD/ KYC of the joint account holder "SMA" was not carried out. Source of funds were mentioned as "cash" which doesn't reflect the source of income.

(c) The requisite documents to ascertain occupation of client "MI" were not available with the Respondent at the time of Review. CDD was not performed on ongoing basis as the Respondent had only old tax return of the client at the time of Review.

(d) The occupation status of client "SS" was mentioned as "other". However, at the time of review, the Respondent was not in possession of any documentary evidence





Securities and Exchange Commission of Pakistan

Adjudication Division
Adjudication Department 1

exhibiting nature of business or source of income of the client "SS". Thus, CDD was not properly carried out by the Respondent.

(e) Account operation through cash deposits by a non-resident overseas client "HZ", depicts weak on-going monitoring mechanism of the Respondent.

7. In view of the foregoing and admission made by the Representatives, contraventions of the provisions of regulations 6(3)(a), 6(3)(c), 13(1), 13(2), 13(3) and 6(4) of AML Regulations have been established. Therefore, in terms of powers conferred under section 40A of the Act, a penalty of **Rs. 300,000/- (Rupees Three Hundred Thousand Only)** is hereby imposed on the Respondent. The Respondent 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.

8. The Respondent is directed to deposit the aforesaid penalty in the account of the Commission being maintained in the designated branches of MCB Bank Limited within 30 days of the date of this Order and furnish Original Deposit Challan to this office.

9. This Order is 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.



(Amir Khan Afridi)

Director/HOD (Adjudication Department-1)

Announced on April 28, 2021
Islamabad