



Securities and Exchange Commission of Pakistan
Securities Market Division

Through Courier

Before the Commissioner (SMD)

In the matter of Show Cause Notice issued to First National Equities Limited

Date of Hearing	June 26, 2019
Present at the Hearing	a. Mr. Khurram Zahoor (Company Secretary)
Representing First National Equities Limited	b. Mr. Ali Raza (Compliance Officer)

ORDER

This Order shall dispose of the proceedings initiated against the First National Equities Limited (the “**Respondent**”) through Show Cause Notice No. 1(67) SMD/ADJ/LHR/2019, dated June 17, 2019 (the “**SCN**”) under Section 40A of the Securities and Exchange Commission of Pakistan Act, 1997 (the “**Act**”).

2. Brief facts of the case are that the Respondent is a Trading Rights Entitlement Certificate holder of the Pakistan Stock Exchange Limited (“**PSX**”) and licensed as a securities broker under Securities Act, 2015 (the “**Act**”).

3. The Thematic Review (the “**Review**”) of the Respondent was initiated under clause 19(ee) of the Joint Inspection Regulations, 2015 (the “**JI Regulations**”) read with Section 169 of the Act and performed under the supervision and direction of Oversight Committee constituted by Commission under the JI Regulations. The Thematic Review Report (“**Report**”) was submitted dated April 4, 2019 after receiving comments of the Respondent on the letter of finding dated March 22, 2019.

4. The Review Report revealed that the Respondent was found non-compliant with the following provisions of AML Regulations:

- i. AML Policy of the Respondent did not include the following requirements of the AML Regulations
 - Regulation 4 (Risk Mitigation and Applying Risk Based Approach) – The Respondent does not have any risk based approach to ascertain risk associated with clients.
 - Regulation 14A (Counter measures against high-risk countries) – The Respondent does not maintain any policy and procedure in this regard.
 - Regulation 18 (Appointment of Compliance Officer) – The Respondent has not incorporated minimum mandate of compliance officer, as required under AML Regulation.
- ii. The Respondent did not contain the mechanism and procedures for ongoing monitoring of their clients.





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- iii. Following discrepancies were observed in Respondent's Know Your Customer/Customer Due Diligence ("KYC/CDD") procedures
- The Respondent had not provided KYC/CDD form of one client.
 - The Respondent had not performed KYC of four corporate clients.
 - The Respondent had not obtained proof of employment/business of twelve clients.
 - The Respondent had not performed KYC of five joint accounts holders.
 - The Respondent had not performed KYC of authorized person of six accounts.
 - The Respondent marked three clients as resident however their respective present address appearing in CNIC is outside Pakistan.
 - The Respondent had not marked two clients as Politically Exposed Person ("PEP").
 - The Respondent had not identified the beneficial ownership of eight clients.
- iv. The Respondent did not justify in writing the decision to rate its clients as low risk on the basis of their CDD process.

5. In view of the aforesaid, the Respondent *prima facie* acted in contravention of the AML Regulations. The Commission, therefore, took cognizance of the aforesaid violations, issued SCN dated June 17, 2019 to the Respondent. The Respondent vide its letter dated July 03, 2019 submitted reply to the SCN, which is reproduced below:

a. *Point 3(a) -*

- *As per the requirements of SECP AML/CFT Regulations, Company has developed Anti Money Laundering Policy along with related Standard Operating Procedures which are approved by FNEL Board of Directors, in order to identify and mitigate the risk of AML/CFT in our client transactions. Our AML/CFT policy and SOP are already shared with your inspection team. Our AML policy and all relevant SOP are designed by the Compliance officer with risk based approach as there was no defined rule of thumb by regulator. All the limits defined in SOP for High Net Worth Individual, customers subject to enhanced due diligence and proposed trading limits are based on Management risk assessment of its clients and then defined corresponding risk mitigation procedures*
- *As per our Company AML/CFT Policy type of customer prohibited by the company includes those customers who have any relationship with non-cooperative countries as notified by FATF from time to time.*

On the other hand company also categorize the customers as high risk customers who are resident of countries subject to sanctions, embargos or similar measures issued by, for example, the United Nations or any credible source.

- *As per our KYC/CDC and AML/CFT policy, compliance function is responsible of*
 - Effectively implementation of AML policy,*
 - Monitoring, reviewing and updating of AML policy accordingly.*
 - A record should be maintained of all noncompliance and reported to BOD*
 - Monitoring and timely reporting of STR and CTR to FMU and*
 - is independent and directly reportable to Board of Directors*

All the above mentioned responsibilities are as per requirements of AML/CFT Regulations, 2018.





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- b. *Point 3(b)*
- *As per our company AML/CFT Policy, periodic review of relationship i.e. KYC updation is performed on occurrence of following:*
 - i. *where warranted by the conduct of account*
 - ii. *on customer request*
 - iii. *as per requirement of AML & KYC Policy*
 - iv. *as and when required*
 - *Company also performed ongoing activity review for suspicious activity monitoring; This is a detective approach towards Anti-Money Laundering. Through ongoing review, FNEL will come to know about any unusual activity in an account. This activity may be conflicting with the limits set for the account or may be suspicious in nature. If the activity is inconsistent with the limits assigned, then there is a need of profile updation. In case of suspicious activity, timely reporting is required.*
 - *Through all the above mentioned procedure, company ensures compliance with ongoing monitoring of its client accounts.*
- c. *Point 3(c)*
- *With respect to Point 3(c) where discrepancies were highlighted by JIT on Know Your Customer/Customer Due Diligence ("KYC/CDD") we reiterate our already submitted reply. However proof of rectification and KYC have already been provided on the date of hearing. Point wise proof of communication to customer and relevant documentary evidence is attached herewith for your kind review.*

6. The Respondent was accorded hearing opportunity on June 26, 2019. Mr. Khurram Zahoor (Company Secretary) and Mr. Ali Raza (Compliance Officer) attended the hearing as Authorized Representatives on behalf of the Respondent. During the hearing proceedings, the Authorized Representatives besides submitting additional arguments, reiterated the argument as submitted in response to the SCN.

7. I have examined the submissions of the Respondent and its Representatives. In this regard, I observe that

- a. With regard to the deficiencies in AML policy of the Respondent pertaining to
- i. Regulation 4 (Risk Mitigation & Applying Risk Based Approach); I have observed that the Respondent's AML Policy provides for the assessment and management of the risks associated with its clients, therefore, sufficiently addressing the observation of the inspection team with regard to the policy.
 - ii. Regulation 14(A) (Counter Measures against high-risk countries); I have observed that the Respondent's policy prohibits to establish business relationship with countries who do not comply with FATF recommendations on anti-money laundering and therefore, found compliant with the said regulation.
 - iii. Regulation 18 (Appointment of Compliance Officer): I have observed that the Respondent's AML policy encompasses the appointment and responsibilities of the





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compliance officer, including compliance with AML Regulations and implementation of AML Policy of the Respondent.

In view of the above, the Respondent is therefore, found complaint with Regulation 4(a) of the AML Regulations.

- b. With regard to ongoing monitoring, the Respondent in its reply to the SCN submitted that it has adopted a detective based approach towards anti-money laundering whereby they come to know about any unusual activity in the clients' accounts. However, it has been observed that this activity is carried out manually and the Respondent has not developed a formal procedure for on-going monitoring of its clients neither shared any evidence in this regard. During the hearing proceedings, the Authorized Representatives admitted that there is no formal mechanism for ongoing monitoring of the clients. The Respondent is therefore, found non-compliant with Regulation 13 of the AML Regulations.
- c. With regard to the discrepancies observed in Respondent's Know Your Customer/Customer Due Diligence ("KYC/CDD") procedures:
- The Respondent submitted that it has internally blocked account of the client due to non-compliance of Standardized Account Opening Form ("SAOF"). However, The Respondent has not provided any evidence of blocking of account.
 - The Respondent during the hearing argued that it had performed the KYC of four corporate clients subsequent to the observation highlighted by the inspection team. However, failed to provide any evidence in this regard.
 - The Respondent provided that three out of twelve clients have already been marked as inactive in back office. For one client, the Respondent has provided FBR Statement of Assets/ Liabilities as proof of business/income. In this regard, it is observed that the Respondent failed to provide any evidence relating to closure of CDC sub account of the three clients and the proof of employment/ business of eight clients.
 - The Respondent failed to provide evidence of KYC for five joint account holders and also admitted the noncompliance during the hearing proceedings.
 - The Respondent submitted that two joint accounts have already been marked as inactive. However, the Respondent fail to provide any evidence of conducting KYC of the authorized persons including the aforesaid two clients.
 - The Respondent submitted that one of client account has been closed. For the remaining two clients the Respondent failed to provide any evidence for change in addresses as they reside outside Pakistan.
 - The Respondent failed to mark two of its clients as PEP. The Respondent during the hearing provided that the clients do not fall under PEP Category. However, as per the definition provided under Regulation 2(t) (ii) of the AML Regulations, these clients shall categorize as PEP. Therefore, Respondent's stance in this regard is not tenable.
 - The Respondent failed to provide evidence of beneficial ownership with respect to its eight clients.





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The aforesaid instance shows that the Respondent is non-compliant with the provisions of Regulation 6(3) of the AML Regulations.

- d. With regard to written justification of its low risk clients, the Respondent, during the hearing, reiterated its stance provided in its reply to the inspection team. It is observed that the Respondent failed to provide any evidence of written justification for its low risk clients in contravention with Regulation 11(2) of the AML Regulations.

8. In the view of the foregoing and the admission by the Respondent, contravention of the provisions of AML Regulations have been established. Therefore, in term of the power conferred under Section 40A of the Act, a penalty of **Rs 200,000/- (Rupees two hundred thousand only)** is hereby imposed on the Respondent. The Respondent is advised to enforce the provisions of AML Regulations in letter and spirit. 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 date this Order and furnish the original deposit challan to this Office.


9. Furthermore, the Respondent is advised to:

- implement on-going monitoring mechanism for its clients, and
- remove deficiencies in CDD of its clients.

A compliance report in this regard shall be submitted within 30 days of this order.

10. This Order is issued without prejudice to any other action that the Commission may initiate against the Respondent in accordance with the law on the matter subsequently investigated or otherwise brought to the knowledge of the Commission.




(Shauzab Ali)
Commissioner (SMD)

Announced on August 01, 2019
Islamabad