



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

ORDER	
Name of Company:	M/s. Berger Paints Pakistan Limited
Show Cause Notice No. & Date:	CSD/ARN/89/2015-589 dated June 27, 2025
Name(s) of Noticee(s):	(i) Mr. Maqbool H. H. Rahimtoola, Chairman; (ii) Dr. Mahmood Ahmad, Chief Executive; (iii) Mr. Tariq Ikram, Director; (iv) Mr. Zafar A. Osmani, Director; (v) Mr. Shahzad M. Hussain, Director; (vi) Mr. Ilyas Sharif, Director; (vii) Mr. Mohammad Saeed, Director; (viii) Ms. Zareen Aziz, Director; and (ix) M/s. Berger Paints Pakistan Limited through the Chief Executive Officer.
Date of Hearing:	July 24, 2025
Case represented by:	Mr. Abdul Hanan, Head of Corporate Affairs of M/s. Hussain Corporate Advisors <i>As the Authorized Representative on behalf of the Noticee(s).</i>
Provision of law involved:	Section 166(1) of the Companies Act, 2017 and Regulation 4(7) of the Companies (Manner and Selection of Independent Directors) Regulations, 2018 read with Section 169 of the Act and Regulations 36(1) of the Listed Companies (Code of Corporate Governance) Regulations, 2019 read with Regulation 37 thereof and Section 512(2) of the Act.
Date of Order:	August 11, 2025

This Order shall dispose of the proceedings initiated by the Securities and Exchange Commission of Pakistan (the “Commission”) through Show Cause Notice No. CSD/ARN/89/2015-589 dated June 27, 2025 (“SCN”) against M/s. Berger Paints Pakistan Limited (the “Company”) and its Board of Directors (BOD) including the Chief Executive Officer (CEO), hereinafter collectively referred to as the “Noticee(s)”, for contravention of the requirements of Section 166(1) of the Companies Act, 2017 (the “Act”) and Regulation 4(7) of the Companies (Manner and Selection of Independent Directors) Regulations, 2018 (the “Director’s Regulations”) read with Section 169 of the Act and Regulations 36(1) of the Listed Companies (Code of Corporate Governance) Regulations, 2019 (the “CCG Regulations”) read with Regulation 37 of the CCG Regulations and Section 512(2) of the Act.

2. 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 the databank of independent directors duly maintained by the Pakistan Institute of Corporate Governance (the “PICG”) who are eligible and willing to act as independent directors. Furthermore, proviso to Section 166(1) of the Act provides that responsibility of exercising due diligence before selecting a person from the data bank referred to above, as an independent director shall lie with the company. Moreover, sub-regulation (7) of Regulations 4 of the Director’s Regulations provides that every company shall be responsible for exercising its due diligence before selecting an individual from the databank or appointment as independent director. As per provisions of Section 169 of the Act, whoever contravenes or fails to comply with any of the provisions of Section 166 of the Act 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 as director of the company for a period not exceeding three years.

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3. Furthermore, sub-regulation (1) of Regulation 36(1) of the CCG Regulations requires that it is mandatory that the company shall publish and circulate a statement along with their annual reports to set out the status of their compliance with the requirements of the Regulations and the said statement shall be specific and supported by necessary explanations. Moreover, as per Regulation 37 of the CCG Regulations, whoever fails or refused to comply with, or contravenes regulation 3, 6, 7, 8, 27, 32, 33 and 36 of these Regulations, shall be punishable with penalty as provided under sub-section (2) of section 512 of the Act; which in-turn provides that a contravention 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.

4. Brief facts of the case are that the review of the Annual Report/Annual Audited Financial Statements for the year ended June 30, 2024 (the "Accounts") and the Quarterly Financial Statements for the quarter ended September 30, 2024 of the Company (the "Quarterly Accounts") revealed that the Company held its election of directors in the Annual General Meeting on October 24, 2023 (the "AGM"); wherein Mr. Mohammad Saeed was elected as an independent director and it was observed that at the time of election, Mr. Saeed's name was not registered/listed in the PICG databank. Despite non-adherence to this basic eligibility criterion on account of non-registration of Mr. Saeed with the PICG databank, the Company, in its Statement of Compliance (SoC) with the CCG Regulations for the year ended 2024, stated at Sr. No. 23 that "it had complied with all mandatory provisions of the CCG Regulations". However, the Company failed to disclose the said non-compliance as required under Regulation 36(1) of the CCG Regulations.

5. In order to probe the matter, the Commission, vide letter dated February 03, 2025 sought explanation/justification from the Company with respect to afore-mentioned elected independent director. The Company vide its letter dated February 25, 2025, *inter alia*, submitted that:

"According to the CCG Regulations, a director with a minimum of 14 years of education and 15 years of experience on Board of a listed company shall be exempt from the directors training program. Mr. Saeed fulfils these criteria; therefore, he was exempted from the directors training program, which is why his name does not appear in the PICG databank."

6. Having not being satisfied with the response, cognizance was taken for the alleged violation of law and SCN was served upon the Noticee(s) 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, Director's Regulation and the CCG Regulations. In response to SCN, the Company Secretary, vide letter dated July 10, 2025, requested an extension in submitting the reply to SCN which was duly granted.

7. Subsequently, Mr. Abdul Hanan, Head of Corporate Affairs of M/s. Hussain Corporate Advisors, as the Authorized Representative of the Noticee(s) (the "Authorized Representative") vide letter dated July 19, 2025, *inter alia*, submitted as under:

"The BOD of the Company, comprising of eight (8) directors, elected in the AGM. Therefore, as per the applicable legal requirement, the Company had a choice to appoint two independent directors and explain the reason for not rounding up the fraction, however, the Company decided to have three (3) independent directors. It is important to note that the whole of the BOD comprised of highly qualified professionals enjoying a professional reputation in the industry. Practically all of the directors meet the criteria of independent director as given in the provisions of Section 166 of the Act and as per the requirement of law, one director has to be appointed as chief executive; therefore, he has been designated as the executive director. The female director (which category is now omitted) at the same time meets the criteria of independent director."

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The Composition of eight elected directors was as follows;

Serial No.	Name	Category
1	Dr. Mahmood Ahmad	Executive Director
2	Mr. Maqbool H. H. Rahimtoola	Non-Executive Director
3	Mr. Shahzad M. Hussain	Non-Executive Director
4	Mr. Ilyas Sharif	Non-Executive Director
5	Mr. Tariq Ikram	Independent Director
6	Mr. Zafar A. Osmani	Independent Director
7	Ms. Zareen Aziz (Female Director)	Independent Director
8	Mr. Mohammad Saeed	Independent Director

The names of following directors were included in the databank of independent directors maintained by the PICG:

1. Mr. Tariq Ikram
2. Mr. Zafar Aziz Osmani
3. Ms. Zareen Aziz

It is admitted that the name of Mr. Saeed was not added in the databank of PICG though he was fully meeting the criteria of independence as provided in Section 166 of the Act

Mr. Saeed is an accomplished professional with over four decades of experience in the paint and coatings industry, both in Pakistan and the United Kingdom. He holds a first-class qualification in Surface Coating Technology from Borrough Polytechnic, London (currently the University of South Bank). He also earned a prestigious qualification in Advanced Paint and Polymer Technology from the City & Guilds of London Institute, where he achieved second position across England in 1967. Mr. Saeed is also a graduate in Science from the University of Karachi. Throughout his career, Mr. Saeed has been recognized for his deep technical knowledge and leadership in the field of surface coatings and polymers.

With a distinguished career of over 40 years in the chemical and coatings industry across Pakistan and the United Kingdom, Mr. Saeed brings deep expertise in paint technologies and industrial processes. His career includes a 30-year tenure at , where he served as Chief Engineer, contributing to engineering excellence and operational improvements. He later joined the Company, retiring as board member (director), where he played a critical role in driving product innovation and enhancing quality standards.

Mr. Saeed's extensive experience and technical acumen continue to add immense value to the organizations he is associated with, particularly in strategic decision-making, product development, and technological advancements within the coatings sector.

It is further submitted that Mr. Saeed has already resigned on November 24, 2024 and in his place Ms. Roohi R. Khan has been appointed on the same date whose name is included in the PICG databank.

In view of the above, it is respectfully submitted that as this is the first-time default of provision of Section 166 of the Act and the Company has subsequently complied with the requirements of the law even before issuance of the show cause notice therefore, the proceedings may be concluded without any adverse orders.

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8. In order to meet the ends of justice, a hearing in the matter was fixed for July 24, 2025, which was attended by the Authorized Representative. During the hearing, the Authorized Representative reiterated the earlier furnished response to SCN and stated that Mr. Saeed resigned from the Company before the issuance of SCN; therefore; requested for a leniency in the matter.

9. I have gone through the relevant provisions of Section 166(1) of the Act, Regulation 4(7) of the Director's Regulations and Regulation 36(1) of the CCG Regulations and have considered the facts of the case as well as the written and the verbal submissions made by the Noticee(s) through their Authorized Representative. I have also perused Section 169 of the Act and Regulation 37 of the CCG Regulations read with Section 512(2) of the Act, which prescribe penal action for contraventions of the aforementioned requirements. It is pertinent to observe that the requirement under Section 166(1) of the Act to select independent directors from the databank maintained by the PICG is fundamental to ensuring good corporate governance and regulatory oversight. This requirement ensures that independent directors are not only professionally qualified and experienced, but also vetted for their eligibility and independence through a transparent institutional process. By adhering to this legal requirement, companies demonstrate their commitment to transparency and accountability, which are essential for maintaining stakeholder trust and confidence. However, in the instant case the Noticee(s), through their Authorized Representative, have admitted that the independent director i.e., Mr. Saeed, was elected despite his name not being included in the PICG databank; thereby failing to fulfil the due diligence requirement prescribed under Regulation 4(7) of the Director's Regulations. Due diligence in this context specifically requires verifying that any person proposed to be appointed as an independent director is duly listed in the PICG databank and meets the prescribed independence criteria. By not fulfilling this requirement, the Noticee(s) contravened the requirements of the provisions of Section 166(1) of the Act read with Regulation 4(7) of the Directors Regulations.

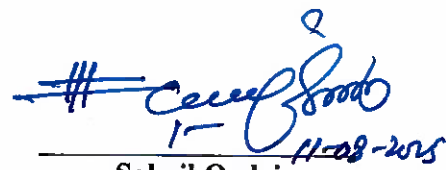
10. Furthermore, it is pertinent to observe that the CCG Regulations play a critical role in strengthening corporate governance practices. Regulation 36(1) of the CCG Regulations specifically obliges companies to publish a SoC with these Regulations in their annual reports, providing transparency and informing stakeholders about the company's governance practices and any deviations therefrom. However, in the instant case, the Noticee(s) failed to disclose the aforementioned non-compliance (appointment of an independent director without PICG databank registration) in their SoC for the year 2024; thereby contravening the requirements of Regulation 36(1) of the CCG Regulations.

11. It is further observed that the Noticee(s), through their Authorized Representative, contended that the Company had elected a Board comprising eight (8) directors at the AGM, including four (4) independent directors, and that the Company could, under the applicable legal requirements, have opted to appoint either two or three independent directors (*depending on the rounding of fractions*), but in fact elected four independent directors. However, the record available with the Commission including the notice of AGM and the announcement of election of directors uploaded by the Company on PUCAR of the Pakistan Stock Exchange, reveals that the Company actually elected a total of seven (7) directors. Amongst these, the Company itself demarcated only three (3) directors as independent directors, including Mr. Saeed. Accordingly, the contention that the Board comprised eight directors with four independent directors is factually incorrect and not supported by the documentary evidences.

12. In light of the foregoing and the admissions made by the Noticee(s) through their Authorized Representative, it has been established beyond doubt that the Noticee(s) have failed to meet the requirements of Section 166(1) of the Act read with Regulation 4(7) of the Director's Regulations and Regulation 36(1) of the CCG Regulations. However, considering the fact that Mr. Saeed resigned from the position of independent director, and in his place, Ms. Roohi R. Khan, whose name is duly included in the PICG databank, was appointed on the same date and also taking into account the assurance provided by the Noticee(s) to ensure strict compliance with the relevant provisions of law and Regulations in future, I am, in exercise of the powers conferred upon me under Section 169 of the Act and Regulation 37 read with Section 512(2) of the Act and S.R.O. 1545(I)/2019 dated December 6,

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2019, inclined to conclude the instant proceeding by strictly **WARNING** the Noticee(s) to exercise greater caution and due diligence in ensuring compliance with regulatory requirements in the future, in true letter and spirit.


11-08-2025

Sohail Qadri
Director/ HOD
Adjudication Department-I

Announced:

Dated: August 11, 2025

Islamabad

