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SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I
Adjudication Division

Order

In the matter of

EMPOWER COMMODITIES (PRIVATE) LIMITED

Show Cause Notice No. 2(284)SMD/Adj-1/2021-319
& Issue Date: dated June 25, 2024
Date(s) of Hearings: September 23, 2024
Present at the Hearing Mr. Shehroz Ghazanfar – Authorized Representative

UNDER REGULATION 31 OF THE SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN (ANTI MONEY LAUNDERING, COUNTERING FINANCING OF TERRORISM) REGULATIONS, 2020 READ WITH SECTION 6A(2)(H) OF THE ANTI-MONEY LAUNDERING ACT, 2010 AND RULE 4(1)(A) AND 6(1) OF THE AML/ CFT SANCTION RULES, 2020

This Order shall dispose of the proceedings initiated through the Show Cause Notice No. 2(284)SMD/Adj-1/2021-319 dated June 25, 2024 (the SCN) by the Securities and Exchange Commission of Pakistan (the Commission) against Empower Commodities (Pvt.) Limited (the Respondent and/or the Company) on account of alleged contravention of Regulation 5(1)(a), Regulation 19, Regulation 25(1)(a), Regulation 27(1)(d), Regulations 27(2) and Regulation 9 read with Annexure-1 further read with Regulation 31 of Securities and Exchange Commission of Pakistan (Anti Money Laundering, Countering Financing of Terrorism) Regulations, 2020 (the AML/CFT Regulations), Section 6(A)(2)(h) of the Anti-Money Laundering Act, 2010 (the AML Act) and Rule 4(1)(a) and 6(1) of the AML/ CFT Sanctions Rules, 2020 (the AML/CFT Rules). The Respondent is a Trading Rights Entitlement Certificate (TREC) holder of Pakistan Mercantile Exchange (PMEX).

2. During the review of the compliance status of the Respondent with the requirements of AML/CFT Regulations for the period **July 01, 2022 to June 30, 2023** (the Review Period), it was, *prima facie*, observed that the Respondent has, *prima facie*, failed to:

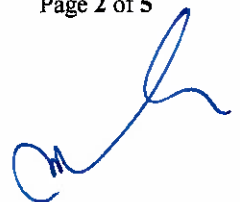
- a) Verify and obtain updated NADRA Verisys or Biometric Verification of 15 clients (selected on sample basis) in contravention of Regulation 9 read with note (ii) of Annexure-1 of the AML/CFT Regulations as per the following details:

S. No.	Trading ID
1	203300124
2	203300191
3	203300155
4	203300219
5	203300119
6	203300153
7	203300208
8	203300137
9	203300202
10	203300163
11	203300184
12	203300240
13	203300114
14	203300185
15	203300186

- b) Obtain information on source of earnings/ income of 10 clients (selected on sample basis) in contravention of Regulation 9(b) read with Annexure-1 of the AML/CFT Regulations.

S. No.	Trading ID
1	203300219
2	203300153
3	203300137
4	203300185
5	203300191
6	203300155
7	203300208
8	203300202
9	203300163
10	203300184

- c) Provide KYC forms of two clients i.e. Trading ID 20330219 and 20330513 in contravention of Regulation 9(b) read with Annexure-1 and Regulation 19 of the AML/CFT Regulations.
- d) Scrutinize as to whether the transactions being conducted in the client account (Trading ID: 20330124) are consistent with the regulated person's knowledge of the customer and source of funds. The Respondent provided salary slip of the client showing monthly salary of Rs. 250,000. However, total deposits of the client amounted to Rs. 60,727,000 which was not consisted with the source of income/ funds of the clients in contravention with Regulation 19(1)(a) of the AML/CFT Regulations.
- e) Obtain board of directors' approval of updated AML/CFT policies and procedures in contravention of Regulation 5(a) of AML/CFT Regulations.
- f) Provide documentary evidence related to screening of new customers in contravention of Regulation 25(1)(a) of AML/CFT Regulations.
- g) Implement Independent Audit function to test the AML/CFT systems, policies and procedures in violation of Regulation 27(1)(d) of AML/CFT Regulations.
- h) Provide Job Description of Compliance Officer and copies of Compliance Reports submitted to its board/ committee to the inspection team in contravention of Regulation 27(2) of AML/CFT Regulations.
3. Taking cognizance in the aforesaid matter, the SCN was issued to the Respondent, calling upon it to show cause in writing as to why penalty provided under Regulation 31 of the AML/CFT Regulations read with Rules 4(1)(a) and 6(1) of the AML Rules read with Section 6(A)(2)(h) of the AML Act, may not be imposed on it for contravening the aforementioned provisions of the law.
4. In response to the SCN the Respondent vide email dated July 09, 2024 submitted its reply in which the Respondent committed to provide information pertaining to the observations highlighted by the SCN. The Respondent vide the aforementioned email also admitted to the oversight in not obtaining board approval for its updated AML/CFT policies. Further, the Respondent submitted that the Internal Audit function will be implemented soon.
5. The Respondent vide email dated August 21, 2024 submitted further response to the SCN, the relevant excerpt of which is provided as under:
- i. The relevant documents with respect to NADRA Verisys could not be produced at the time of inspection. Out of 15 clients, biometric verification for 13 clients was already carried out. In case



- of 1 client, the account was rejected by PMEX, so no biometric verification was required. In another instance, the biometric verification is pending for which the Company has approached the NCCPL for extension in biometric verification and soon will be carried out.
- ii. Regulation 9(b) of AML/CFT Regulations doesn't deal source of income rather it deals with identity documents which have been obtained.
 - iii. KYC forms of both accounts are provided in response.
 - iv. With regard to the discrepancy in the client account, it may be noted that the client never deposited Rs.60,727,000 in her account. In fact, her initial deposit was Rs. 8 million and later on she was making profit and reinvesting in her account, even her profits are not calculated and she has not deposited more than 40 million in her account till date. However, as per her income statement, her worth is more than 40 million.
 - v. The latest AML/CFT policy duly approved by board of directors is provided in response and the Compliance Department of the Company is functioning as per the policy.
 - vi. Regarding Independent Audit of AML/CFT systems, the point is noted for future compliance.
 - vii. The Company has provided Job Description for Compliance officer.

6. In order to provide the Respondent an opportunity of personal representation, hearing in the matter was fixed for July 25, 2024. However, adjournment was sought by the Respondent. Hearing in the matter was re-fixed for August 07, 2024. However, the matter was once again adjourned on the request of the Respondent. A final hearing opportunity was provided to the Respondent on September 23, 2024 which was attended by Mr. Shehroze Ghazanfar as its Authorized Representative (**the Representative**). During the course of hearing, the Representative explained reasons for the alleged non-compliances, as narrated in the SCN. The Representative reiterated the same stance as taken in response to the SCN vide letter dated August 05, 2024 and submitted that its Independent Audit function of AML/CFT systems was not established at the time of review. The Respondent also submitted that the following documents will be provided after the hearing:

- i. Evidence regarding the bio-metric verification of the clients.
- ii. Source of earning/ income of the clients.
- iii. KYC forms of two clients.
- iv. Board approval of AML/CFT policies.
- v. The mechanism of screening.
- vi. Job Description of the Compliance Officer.

7. The Respondent vide its Authorized Representative, submitted a revised written reply to the SCN on October 21, 2024, the relevant excerpt of which is provided as under:

- i. The Company always obtains and verify the biometric verifications of all their clients and the clients mentioned in the SCN are no exception. Out of 15 clients, 8 clients fall out of the inspection period and their account registration dates are provided along with the response. With respect to the rest of clients, the biometric verifications of the said clients are provided along with respective dates except one client which was rejected by PMEX for which no further process was carried out.
- ii. The Company has obtained information on source of earnings/income of all these clients. Out of 10 clients, 6 clients fall out of inspection period and their account registration dates are provided along with response. For the remaining clients, KYC forms are provided, which records, information on source of earnings/income.
- iii. KYC forms of two clients were already available.
- iv. With respect to the client's (Trading ID: 20330124), total deposits amount to Rs. 43,402,000; however, withdrawals totaling Rs. 30,920,000 must also be considered. The Respondent conducted initial and ongoing due diligence per AML, CFT, and PF Guidelines, including obtaining the client's income tax returns and transaction history, which were submitted in the response.
- v. The board resolution with respect to approval of AML/CFT policy was provided.

8. I have examined the facts of the case in light of the applicable provisions of the law and have given due consideration to the written as well as verbal submissions and arguments of the Respondent and its Representative. At this juncture, it is essential to address the following:

- (i) The Respondent provided NCCPL reports for 6 of 15 clients, showing One Time Password (OTP) verification for five clients and Biometric Verification for one client. This does not meet Regulation 9 read with Annexure-1 of AML/CFT Regulations, which requires NADRA Verisys or Biometric Verification by the Respondent being a regulated person as defined in Clause (r) of Regulation 3(1) of the AML/CFT Regulations. Compliance cannot be delegated to NCCPL, and the evidence provided depicts that the Biometric Verification/ NADRA Verisys was carried out after inspection.

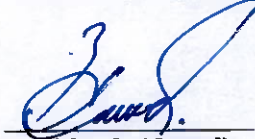
The Respondent claimed that 8 out of 15 clients, identified in the SCN, fall outside the inspection period and should not be considered for violation of Regulation 9 of the AML/CFT Regulations. However, the PMEX inspection notice dated January 1, 2024, allows review of records beyond the inspection period. Therefore, this plea is not cogent, and the Respondent cannot be absolved from the violation in respect of 8 clients as well.

- (ii) The Respondent provided KYC form and ID Card copy of 3 clients only and no source of earnings/ income was provided for any of the 10 clients. Therefore, the Respondent has contravened Regulation 9(b) of the AML/CFT Regulations. The Respondent in its written reply submitted that 6 out of 10 accounts were opened after the inspection period therefore, they may not be considered for the alleged violation of Regulation 9(b) of the AML/CFT Regulations. However, the PMEX inspection notice dated January 1, 2024, allows review of records beyond the inspection period. Therefore, this plea is not cogent, and the Respondent is accountable for the violation.
- (iii) The Respondent has provided KYC forms in respect of two clients having Trading ID 20330219 and 20330153 dated September 27, 2023 and March 03, 2023 hence, the Respondent cannot be held accountable in this matter.
- (iv) With regard to the discrepancy in matter of one instance (Trading ID: 20330124); wherein, the income level was not consistent with the deposits in the client account, the Respondent claimed Rs. 43,402,000 in deposits should be considered alongside withdrawals of Rs. 30,920,000. However, during the period from July to September 2022, deposits totaled Rs. 6.5 million, while withdrawals were only Rs. 374,949. The Respondent relied on a salary slip of the afore-said client, showing Rs. 250,000 monthly income, which is not consistent with the deposits. This justification lacks merit, and the Respondent was in violation of Regulation 19(1)(a) of the AML/CFT Regulations.
- (v) The Respondent failed to provide its AML/CFT policies duly approved by the board of directors along with minutes of the meeting in which policies were duly approved. The same has been admitted by the Respondent vide its email dated July 09, 2024. Therefore, the Respondent was in violation of Regulation 5(a) of the AML/CFT Regulations.
- (vi) The Respondent failed to provide evidence of screening of new customers, including nominees, joint account holders, and authorized persons, in respect of their matches with designated/proscribed persons under relevant SROs and notifications. Despite informing via email on July 9, 2024, that evidence was will be provided, the Respondent failed to submit the same thereby, the Respondent was in violation of Regulation 25(1)(a) of the AML/CFT Regulations
- (vii) The Respondent during the proceedings and via email dated July 9, 2024 admitted that there was no Independent Audit function at the time of inspection. However, the Respondent stated that compliance in the matter will be made. Therefore, the Respondent was in violation of Regulation 27(1)(d) of the AML/CFT Regulations.
- (viii) The Respondent, via email dated August 21, 2024, provided the Job Description of the Compliance Officer, which includes preparing quarterly, half-yearly, and annual reports for submission to the board of directors by the Compliance Officer. However, no evidence with respect to submission of afore-said

periodical compliance reports was provided, therefore, the Respondent was in partial compliance of Regulation 27(2) of the AML/CFT Regulations.

9. It is therefore, established that the Respondent has contravened Regulation 5(a), 9, 19(1)(a), 27(1)(d) and 27(2) read with Annexure-1 of the AML/CFT Regulations which attract the applicability of Regulation 31 of the AML/CFT Regulations read with Rules 4(1)(a) and 6(1) of the AML Rules and Section 6A(2)(h) of the AML Act. I, therefore, hereby, in terms of powers conferred under Section 6(A)(2)(h) of the AML Act read with Regulation 31 of the AML/CFT Regulations read with S.R.O. 827(I)/2022 dated June 9, 2022, impose a penalty of **Rs.380,000/- (Rupees Three Hundred and Eighty Thousand only)** on the Respondent on account of established default

10. The Respondent is hereby directed to deposit the aforesaid fine in the designated bank account maintained in the name of Securities and Exchange Commission of Pakistan with MCB Bank Limited or United Bank Limited within thirty (30) days from the date of this Order and furnish receipted voucher issued in the name of the Commission for information and record.



(Mahboob Ahmad)

Additional Director / Head of Wing

Licensed Entities - Adjudication Department-I

Announced:

December 27, 2024

Islamabad

