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SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

Order	
Name of the Company/ Respondent	M/s. Axis Global Limited
Show Cause Notice No. & Issue Date	1(166) SMD/Adj-I/KHI/2019-17 dated July 12, 2024
Date(s) of Hearing	August 12, 2024; August 28, 2024; November 05, 2024
Case presented by	Mr. Hamad Kehar – Director *(As the Authorized Representative)*
Provisions of law involved	Section 150(2) & 150(5) of the Securities Act, 2015 read with Regulation 16(2)(Ka)(Iv) of the Securities Brokers (Licensing and Operations) Regulations, 2016 and Circular No. 12 of 2019 dated August 23, 2019.
Date of Order	June 04, 2025

This Order shall dispose of the proceedings initiated through the Show Cause Notice 1(166) SMD/Adj-I/KHI/2019-17 dated July 12, 2024 (**SCN**) by the Securities and Exchange Commission of Pakistan (**the Commission**) against M/s. Axis Global Limited (**the Respondent /the Company**) on account of contravention of Regulation 16(2)(ka)(iv) of the Securities Brokers (Licensing And Operations) Regulations, 2016 (the "**Regulations**") and Circular No. 12 of 2019 dated August 23, 2019 (the "**Circular**") read with Sections 150(2) and 150(5) of the Securities Act, 2015 (**the "Act"**).

2. Regulation 16(2)(ka)(iv) of the Regulations, *inter alia,* stipulates that a securities broker shall not accept any money or borrowing from its directors except in the form of subordinated loans, subject to the conditions as may be imposed by the Commission from time to time. Furthermore, the Circular further specifies the conditions relating to subordinated loans taken by securities brokers from their directors, sponsors or substantial shareholder where clause I(b) of the Circular, *inter alia,* stipulates that a broker may pay mark-up or interest on the subordinated loan, provided that it has a Management Rating of not less than BMR3.

3. Brief facts of the case are that the Respondent is a Trading Right Entitlement Certificate (TREC) holder of Pakistan Stock Exchange (**PSX**). Upon review of the Annual Audited Financial Statements of the Company for the year ended June 30, 2023 (**the Accounts**) it was observed that as per Note 14 to the Accounts, the Company had obtained an unsecured loan from its directors vide an agreement dated December 15, 2018. On June 30, 2022, the Company converted the said loan from directors *(with an outstanding amount of Rs. 15,050,000)* into a subordinate loan. The Note 14 further disclosed that the loan carries a markup at the rate of 12.5% per annum, payable on quarterly basis. The details of the said loan from directors as per the annual audited financial statements of the Company for the years 2019 till 2023 are reproduced below for reference:

Particulars	2023	2022	2021	2020	2019
Outstanding Loan as at (Rs.)	15,050,000	15,050,000	15,050,000	15,050,000	25,050,000
Mark-up @ 12.5%	1,887,848	1,887,428	1,881,246	2,537,087	2,504,999
Nature of Loan disclosed in the relevant accounts	Subordinate loan	(Long-Term) Loan from Directors			
Total Mark-up charged since 2019 till 2023 (Rs.)	**10,699,028**				

4. The review of the Accounts and the financial statements of the Company for the relevant years in the instant matter, *prima facie,* reflected that:

i. The Company, being a licensed securities broker, obtained an unsecured, unsubordinated and long-term loan from its directors in the year 2018 which was only converted into a subordinate loan by the end of financial year 2022 i.e. after a lapse of four (04) years. The said loan obtained from directors in the year 2018 was thus not a subordinate loan which constituted a contravention of Regulation 16(2)(ka)(iv) of the Regulations; and

ii. The Company had not obtained the requisite rating to meet the requirement of a minimum of BMR3 rating as required by the Circular for paying of markup on subordinated loans from directors. Thus, the payment of interest/mark-up on the loan in this case obtained from directors constituted a violation of clause 1(b) of the Circular read with Regulation 16(2)(ka)(iv) of the Regulations.

5. In order to probe the matter, the Commission sought clarification from the Company vide letter dated April 17, 2024 on the alleged contravention of the Regulations and the Circular. The Company in its response vide letter dated May 10, 2024, *inter alia,* submitted that "*the subordinate loan... was meticulously documented in accordance with Circular 12 of 2019 dated August 23, 2019. A formal subordination agreement was executed between the provider of the loan and the Company, mentioning the minimum tenor, terms of repayment, and repayment schedule.*"

6. The requirements under Regulation 16(2)(ka)(iv) of the Regulations and the conditions imposed in the Circular clearly and unambiguously mandate a securities broker to obtain loan from its directors *only in the form of a loan that is sub-ordinate to its all other indebtedness, and prohibit it from paying any interest or mark-up on such loans if it holds a Management Rating (BMR) of less than BMR3.* Therefore, the afore-mentioned, *prima facie*, contraventions of law attract the penal action laid down under Section 150(2) read with 150(5) of the Act.

7. Taking cognizance in the matter, SCN was issued to the Respondent, calling upon it to show cause in writing as to why a penal action may not be taken for contravening the afore-mentioned provisions of the law. In response to SCN, the Respondent vide its letter dated July 26, 2024 submitted as under:

"...

2. In regard it is submitted that the Company, being a licensed Securities Broker, obtained an unsecured, long-term loan from directors in the year 2018. This loan was then converted into a subordinated loan by the end of the financial year 2022.

3. It is stressed that this loan and/or subordinated loan is not prejudicial to public interest as the Company is a public unlisted company. The Securities Act, 2015, as stated in its preamble, aims to protect investors. In this case, the shareholders are the directors themselves, meaning the Company is not cheating or deceiving any outside investors.

4. We believe that the Regulations are made to cover all entities, including public interest companies. However, prima facie this oversight by A-category auditors and regulatory bodies is due to the fact that this Company is not a public interest Company. We would like to highlight that this loan is intended to facilitate our business. A loan in any form taken by a limited Company does not, in any manner, compromise investor protection. The Company's actions have been transparent and in the best interest of its operations and stakeholders.

5. It is also submitted that two A-category auditors have audited the accounts of the Company and reviewed the very loan transaction and related agreements, that are the subject of the Show-Cause, but neither pointed out or mentioned the Management Rating. This oversight by reputable auditors suggests that the matter was not deemed significant enough to affect the financial integrity of the Company.

6. The audited accounts have been submitted to both frontline and apex regulators without any prior mention of this issue over the last four years. This indicates that there was no intent to cheat or misguide anyone, and the Company's actions were in good faith and aligned with its understanding of regulatory requirements.

7. The initial unsecured loan from directors was converted to a subordinate loan by June 30, 2022. This decision was made to align with financial strategies and operational requirements. The conversion was documented and disclosed transparently in the financial statements. At no point was there any intention to contravene the Regulations.

8. The Company has always aimed to adhere to all applicable Regulations. We have initiated internal reviews and consultations with legal and financial advisors to ensure that future actions fully comply with regulatory requirements. Moreover, if the Commission is of the opinion that the said loan should be renegotiated without any markup with immediate effect, then it can be done. Since FBR does not recognize any free loans and assess it as deemed income, therefore, minimum acceptable rate is requested.

In light of these clarifications, we respectfully request that the Show Cause Notice be reconsidered. The Company is dedicated to maintaining transparency and compliance with all regulatory standards and will continue to work closely with the regulatory authorities to address any concerns.

In summary, we have addressed the observations raised and demonstrated that the loan in question was not prejudicial to public interest, did not compromise investor

protection, and was obtained in good faith. We acknowledge the oversight and commit to ensuring future compliance. We respectfully request that the Show Cause Notice be reconsidered, considering our clarifications and commitment to Regulatory Compliance..."

8. In order to provide the Respondent an opportunity of personal representation, hearing in the matter was first fixed on August 12, 2024. The Respondent through its letter dated August 06, 2024 requested for an adjournment in the matter. Subsequently, another hearing in the matter was fixed on August 28, 2024 which was adjourned due to unavoidable reasons. In order to meet the ends of justice a final hearing opportunity was granted to the Respondent and hearing in the matter was fixed for November 05, 2024 which was attended by Mr. Hamad Kehar, Director as the Authorized Representative (**the Authorized Representative**) through Zoom video link facility. During the course of hearing, the Authorized Representative reiterated the stance as taken in response to the SCN vide letter dated July 26, 2024 and, *inter alia*, submitted as under:

i. *The Company is a public unlisted entity with its entire shareholding held exclusively by its Directors. Given this structure, the loan and/or subordinated loan does not present any risk or prejudice to the public interest.*
ii. *The Company's audited accounts have been thoroughly reviewed by two independent A-category auditors since the disbursement of the loan. Both auditors did not raise any concerns or objections regarding the loan granted by the directors, reflecting compliance with prevailing accounting standards and transparency.*
iii. *While the Company has not yet obtained a Broker Management Rating, it is committed to initiating and completing this process in the near future to strengthen governance and operational oversight.*
iv. *The loan was secured in good faith, and the Company is actively working to eliminate the loan from its books. As part of this corrective effort, a new agreement is being finalized with the Director, under which no mark-up will be paid on the loan.*
v. *Given the ongoing measures to rectify the default, the Company respectfully requests a lenient approach from the regulatory authorities. The corrective actions being undertaken reflect a sincere commitment to compliance and best practices.*

9. 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 through the Authorized Representative. I have also perused the relevant provisions of the Regulations along with the provision of the Circular in a wholistic manner. At this juncture, it is imperative to discuss the following legal and factual elements:

i. Under **Regulation 16(2)(ka)(iv)** of the Regulations, securities brokers are required to accept loans from directors only if they are structured as subordinated debt, thereby ensuring the priority repayment of external creditors. <u>The Company received a director loan of **PKR 25.05 million** vide an agreement dated December 15, 2018 at a mark-up rate of 10% per annum payable on quarterly basis, which remained unsubordinated for a **four-year period** before its eventual conversion into a subordinated loan.</u> It is

observed that the first installment of Rs. 10 million was paid by the Company in November, 2019; whereas, the mark-up rate was revised to 12.5% as per the financial statements for the year ended June, 2020. This substantial delay contravenes the regulatory framework. By keeping the loan unsubordinated, the Company exposed itself and its stakeholders to heightened financial risk, undermining the Regulation's spirit to maintain market integrity and protect public interest.

ii. Further enhancing the gravity of the violation, the Company acted completely against the requirements of **Clause 1(b) of the Circular**, which mandates brokers to maintain a Management Rating of **BMR3** or higher to meet interest obligations on subordinated loans. The Company, despite failing to obtain the requisite rating as prescribed under the law, not only paid **PKR 10.69 million** in interest on the loan which was not subordinated during the period of 2019 till 2022, but also continue to accrue the remaining amount of **Rs.15.05 million** which still appears in the books as unpaid. This practice contravenes regulatory safeguards intended to prevent financially weak entities from excessive debt servicing, exposing both creditors and investors to elevated risk and eroding public confidence.

iii. It is important to observe that the Company's assertion that its auditors did not identify the regulatory compliance issues concerning the loan do not stand any ground as regulatory adherence is ultimately the Company's responsibility, irrespective of external oversight and its ability to identify any contraventions. Therefore, the **PKR 25.05 million** director loan's status, delayed conversion, and payment of mark up with associated rating concerns were matters that the Company's management was expected to have undertaken in line with the requirements of the law by proactively addressing the compliance failures.

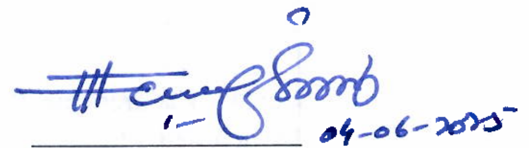
iv. Maintaining a **BMR3 rating** is a prerequisite for interest payments on subordinated loans to ensure brokers with limited financial robustness do not engage in excessive debt servicing, potentially weakening their capital base. Notably, the Respondent only sought to address its Broker Management Rating deficiency by sending letters to PACRA and VIS for a rating review on November 6, 2024—well after the initiation of adjudication proceedings. This belated attempt to rectify its rating highlights a reactive rather than proactive approach to regulatory compliance, further underlining concerns about its overall liquidity management and adherence to financial regulations. If the Company had utilized client funds or short-term assets to service this debt, it would breach client fund segregation requirements, further endangering client asset security and destabilizing the market.

v. The Company's arguments that since its directors are also shareholders and in the instant matter the public interest has remained unaffected are bound to be seen in the overall context of compliance requirements and how liquidity and solvent position of a brokerage firm contributes towards the overall systemic risk of the market, especially where in the instant matter the TREC holder was also operating as a Trading and Self Clearing securities broker. It must be noted that the concept of public interest in the

financial sector goes beyond direct shareholder relations and encompasses the broader goals of market integrity, transparency, and investor confidence. The regulatory framework gains its robustness when applied in its entirety, ensuring transparency, accountability, and financial prudence. In this regard clear guidance can be fetched from the case of ***Mst. Alia Riaz v. Government of Punjab (2015 CLC 1640)***, wherein Hon' Justice Ijaz-ul-Ahsan, J of the Hon' High Court noted that: *"14. The argument of the learned counsel for the respondent that there was substantial compliance of the rules insofar as the Director of Agriculture (Economic and Marketing) had forwarded the case to the District Coordination Officer, who had sent the matter to the Chief Minister for requisite orders, has not impressed me.* ***It is settled law that where a thing is required to be done in a particular manner, it must be done in that manner or not at all.*** Selective compliance or delayed adherence to key requirements, subordinated loans and the maintenance of requisite management ratings, undermines the overarching goals of investor protection and market stability

10. In view of the above mentioned arguments, I am of the considered view that non-compliances/ contraventions of the Regulation 16(2)(ka)(iv) of the Regulations and Clause 1(b) of the Circular have been established beyond doubt which attract the applicability of Section 150(2) read with Section 150(5) of the Act. Therefore, I, in terms of powers conferred upon me under Section 150(2) of the Act read with SRO 1545(I)/2019 dated December 06, 2019, impose a penalty of **Rs. 50,000/- (Rupees Fifty Thousand Only)** on the Respondent on account of established default. Furthermore, the Respondent is advised to ensure compliance with clause 1(b) in the matter of BMR and report to the relevant Department of the Commission within thirty (30) days of the date of this Order.

11. The Respondent is, hereby, directed to deposit the aforesaid amount of penalty in the designated bank account maintained in the name of the Commission with MCB Bank Limited or United Bank Limited within thirty (30) days from the date of this Order and to furnish a receipted bank challan to the Commission forthwith. In case of failure to deposit the penalty, the proceedings under Section 162 of the Act will be initiated for recovery of the penalty/fines as arrears of land revenue pursuant to provision of Section 42B of the Securities and Exchange Commission of Pakistan Act, 1997 (**the "SECP Act"**).



(Sohail Qadri)
Director/ Head of Department
Adjudication Department-I

Announced:
June 04, 2025
Islamabad