



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

Order	
Name of Company:	M/s. Habib Insurance Company Limited
Show Cause Notice No. & Issue Date:	No. ID/Enf/Habib/2025/332 dated February 10, 2025
Respondents:	(i) M/s. Habib Insurance Company Limited; (ii) Syed Ather Abbas, Chief Executive Officer; (iii) Mr. Rafiq M. Habib, Director; (iv) Mr. Mansoor G. Habib, Director; (v) Mr. Muhammad Hyder Habib, Director; (vi) Mr. Qumail R. Habib, Director; (vii) Mr. Aun Mohammad A. Habib, Director; (viii) Mr. Shahid Ghaffar, Director; (ix) Mr. Ali Fadool, Director; (x) Ms. Maleeha Humayun Bangash, Director; (xi) Mr. Shabbir Gulamali, Director
Date(s) of Hearings:	April 21, 2025
Present at the Hearing:	(i) Syed Ather Abbas, Chief Executive Officer (ii) Mr. Murtaza Hussain, Chief Financial Officer (<i>Authorised Representatives on behalf of the Respondents</i>)
Provisions of law involved:	Section 4(3)(a)(vi), Section 4(4)(f) and Section 45 (1) of the Insurance Ordinance, 2000 (the Ordinance) and Rules 3A, 4(2), 5(1) and 6(1) of the Credit and Suretyship (Conduct of Business) Rules, 2018 (the Suretyship Rules) read with Section 156 of the Ordinance and Rule 8 of the Suretyship Rules.
Date of Order	June 30, 2025

This Order shall dispose of the proceedings initiated by the Securities and Exchange Commission of Pakistan (the “**Commission**”) through the Show Cause Notice No. ID/Enf/Habib/2025/332 dated February 10, 2025 (“**SCN**”) against M/s. Habib Insurance Company Limited, (the “**Company**”) and its Board of Directors (“**BOD**”) including the CEO, hereinafter collectively referred to as the “**Respondents**”, issued under Section 4(3)(a)(vi), Section 4(4)(f) and Section 45 (1) of the Insurance Ordinance, 2000 (the **Ordinance**), and Rules 3A, 4(2), 5(1) and 6(1) of the Credit and Suretyship (Conduct of Business) Rules, 2018 (the “**Suretyship Rules**”) read with Section 156 of the Ordinance and Rule 8 of the Suretyship Rules.

2. The provisions of Section 4(3)(a)(vi) of the Ordinance recognize “credit and suretyship business” as one of the classes of non-life insurance business and Section 4(4)(f) of the Ordinance provides that “credit and suretyship business” means effecting and carrying out contracts of insurance against loss to the policy holder arising from performance of contracts of guarantee or contracts for fidelity bonds, performance bonds, administration bonds, bail bonds, custom bonds or similar contracts of guarantee. Therefore, in terms of Section 4(3)(a)(vi) of the Insurance Ordinance, 2000, “**credit and suretyship business**” is explicitly classified as a distinct category of non-life insurance

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business, encompassing contracts such as fidelity bonds, performance bonds, and **custom bonds**. Moreover, Section 4(4)(f) thereof clearly demarcates which business shall constitute the credit and suretyship business, thereby including custom bonds and other similar types of undertakings.

3. Moreover, Section 45(1) of the Ordinance requires that every insurer, in respect of all insurance business transacted by it, shall maintain proper books and records. Moreover, Section 45(6) of the Ordinance provides that an insurer shall take all reasonable precautions for guarding against falsification in any book or record required to be kept or prepared by an insurer.

4. The provisions of Rule 3A of the Suretyship Rules mandate the insurer undertaking the suretyship business to establish a risk assessment mechanism to evaluate the financial and technical strength of the prospective guarantee/bond holders. Furthermore, Rule 4(2) thereof requires that an insurer shall procure collateral in case of guarantees/bonds of an amount equivalent to at least 80% of the sum insured / amount of bond/guarantee less reinsurance, where this requirement of collateral was amended vide S.R.O. 1010(I)/2022 dated July 5, 2022 as 10% of the sum insured/ amount of bond/guarantee. Moreover, Rule 5(1) thereof demands that collateral in the form of cash deposits shall be maintained in accordance with the requirements of Section 217 of the Companies Act, 2017 (the Companies Act) which primarily requires such collaterals to be maintained in a separate bank account and restricts the utilization of such collaterals by the insurer. Rule 6(1) thereof further requires that every insurer offering a guarantee/bond in a given financial year, shall submit the statements for such financial year, on the format prescribed under FORM GCS in Annexure to the Rules, along with the regulatory returns to be filed under Section 46 of the Ordinance.

5. Any contravention of the above said provisions of the Ordinance attracts penal action under Section 156 of the Ordinance, which provides that in case an insurer makes default in complying with or acts in contravention of any requirement of the Ordinance, or any direction made by the Commission, the Commission shall have the power to impose fine on the insurer and its directors, chief executive officer or any other officer of the insurer who is knowingly a party to the default, which may extend to one million rupees and, in the case of a continuing default, with an additional fine which may extend to ten thousand rupees for every day during which the default continues. Moreover, contravention of requirements of Rules 3A, 4(2), 5(1) and 6(1) of the Suretyship Rules attracts the provisions of Rule 8 thereof which provides that such contravention shall be punishable in accordance with the penal provisions of the Ordinance, i.e., Section 156 of the Ordinance.

6. Brief facts of the instant case are that the Commission conducted an onsite inspection of the Company covering the review period from January 1, 2023, to June 30, 2023, pursuant to an Inspection Order dated August 3, 2023. The inspection was carried out with an objective to assess the compliance of the Company with the Suretyship Rules under Insurance Regulatory Framework. Upon conclusion of the inspection proceedings, the Commission issued a Letter of Findings dated October 19, 2023 to seek comments of the Company on the findings/observations given therein. Subsequently, the Inspection Report dated December 7, 2023 was also duly shared with the Company.

7. As per the findings of the Inspection Report, it was revealed that the Company had issued Custom Duty Guarantees in connection with Afghan Transit Trade (ATT) but classified these transactions under the "Miscellaneous" class of insurance business instead of "Credit and Suretyship". This misclassification was not in line with the provisions of Section 4(3)(a)(vi) read with Section 4(4)(f) of the Ordinance which explicitly recognizes suretyship as a distinct class of non-life insurance business which then specifically includes "**custom bonds**" within the scope of credit and suretyship class. Such misclassification had, *prima facie*, resulted in violation of the provisions of the Ordinance, as all custom bonds including those issued in connection with ATT fell squarely

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under credit and suretyship business given the nature of suchss guarantees against potential losses arising from customs-related obligations.

8. It was further observed that that the Company failed to obtain any collateral with respect to the policies issued pertaining to Custom Duty Guarantees in respect of ATT which, *prima facie*, constituted contravention of the requirements of Rule 4(2) of the Suretyship Rules. A summary of such insurance guarantees/policies is given as under:

Sr. #	Period	No. of Policies	Sum Insured of Custom Duty Guarantee (Rs.)	Gross Premium related to Custom Duty Guarantee (Rs.)	Net Premium related to Custom Duty Guarantee (Rs.)
1.	Six months ended June 30, 2023	356	5,815,704,402	12,145,356	14,497,605
2.	FY 2022	610	6,625,680,367	3,647,823	6,398,556
3.	FY 2021	1506	10,299,643,146	3,413,518	7,722,125
4.	FY 2020	796	2,382,443,800	990,201	2,016,045

9. Furthermore, the Company failed to provide any evidence to the inspection team regarding existence of the risk assessment mechanism to evaluate the technical and financial strength of the prospective guarantee/bond holders. Therefore, the Company, *prima facie*, violated the requirements of Rule 3A of the Suretyship Rules. Additionally, during the review of FORM GCS filed by the Company for the year ended December 31, 2022 (FY 2022), it was observed that the said FORM GCS contained the information in respect of only one (1) policy relating to "Mobilization Advance Bond"; however, all other Custom Duty Guarantees/Bonds issued in respect of ATT (610 policies in total) underwritten during FY 2022 were not disclosed in the said FORM GCS. In addition, FORMS GCS for FY 2020 and FY 2021 were not filed with the Commission despite the fact that 796 and 1506 Custom Duty Guarantee/Bonds policies were issued during FY 2020 and FY 2021 respectively. Therefore, the Company, *prima facie*, contravened the requirements of Rule 6(1) of the Suretyship Rules. Moreover, the aforesaid practice of non-recording and non-reporting of Custom Duty Guarantee policies in FORM GCS tantamounted to falsification of the record of the Company as well as misstatements in the regulatory returns filed with the SECP. Thus, the Company, *prima facie*, contravened the provisions of Section 45(6) read with Section 45(1) of the Ordinance.

10. Furthermore, during the review of the Company's business relating to guarantees/bonds, it was noted that no special bank account is being maintained by the Company, which, *prima facie*, constituted contravention of Rule 5(1) of the Suretyship Rules.

11. The aforesaid non-compliances attracted penal provisions contained in Section 156 of the Ordinance read with Rule 8 of the Suretyship Rules. Therefore, taking the cognizance in the matter, SCN was served upon the Respondents calling upon them to show cause in writing within fourteen (14) days of the date of SCN as to why a penal action may not be undertaken against them for contravening the aforesaid provisions of the law/regulatory framework.

12. In response to SCN, the Company vide letter dated February 28, 2025 furnished its written response which, *inter alia*, stated as under:

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The subject insurance policies were issued under Afghan Transit Trade (ATT) on a bona fide understanding that since these policies secure only duties and taxes payable by the importer to the Government of Pakistan, they do not fall under the purview of the Suretyship Rules and as such do not require procurement of collaterals under the Suretyship Rules. The Company did not insure goods in transit through the subject policies.

The highlighted policies did not fall within the purview of Rule 3 of Suretyship Rules, which applies to specific categories of Bonds enunciated in clauses (a) to (i) of Rule 3 of the Suretyship Rules; therefore, the Company believed that it was not required to obtain collaterals in respect of these policies.

The insurance guarantees issued by the Company did not fall under the definition of Custom Bonds, as enunciated in Rule 3(1)(h) of the Suretyship Rules. Therefore, these policies were underwritten under "Miscellaneous" class.

With regards to the insurance guarantees, it may be noted that the Company has placed full exposure in facultative with a local insurer, therefore there was Nil exposure on part of the Company. Before amendment in Rules i.e., July 05, 2022, an amount equivalent to 80% of the net exposure was required to be procured as collateral. After amendment in the Suretyship Rules (on July 05, 2022), 10% of the Gross Sum Insured is required to be obtained as collateral. Since the business was not being considered as Bond Business and all exposure in this period was placed through facultative insurance to another insurance company, there was no exposure for the Company. Hence, no collateral was required by the Company. Therefore, the Company did not contravene the requirements of Rule 4(2) of the Suretyship Rules.

As per the Company's interpretation, the Afghan Transit Trade business does not fall under the Suretyship business. Therefore, the said business was being underwritten under Miscellaneous class and accordingly, the same was not disclosed in Form GCS for FY 2022. Moreover, no Form GCS for FY 2020 and FY 2021 was submitted as no bond was issued in the said years.

The risk assessment was not performed as the company did not consider the said business as bond business.

The Company as a policy doesn't underwrite Bond Business, except in certain cases; therefore, a separate bank account was not maintained, and we are now opening a separate account for this purpose immediately.

The Commission vide Order dated May 6, 2024 has already penalized the Company with an amount of Rs. 300,000/- on account of contraventions of the Suretyship Rules in respect of the business underwritten for FY 2022 and the said amount of penalty has been deposited.

13. In order to provide the Respondents an opportunity of representation, hearing in the matter was fixed for April 21, 2025. The said hearing was attended by Syed Ather Abbas (CEO) and Mr. Murtaza Hussain (CFO) as the Authorized Representatives of the Respondents (**the Authorised Representatives**). During the hearing, the Authorised Representatives were advised to submit the reasons for alleged non-compliances as narrated in SCN. The Authorized Representatives reiterated

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the submissions and arguments made in the written response dated February 28, 2025 and further submitted that the alleged violations may be condoned by taking a lenient view. During the hearing proceedings, the Authorised Representatives further submitted that the Company has already stopped underwriting the ATT business and there is no more exposure on the Company on account of the said business. The Authorised Representatives were advised to submit confirmation in writing, in this regard.

14. Subsequent to the hearing, the Company vide letter dated April 24, 2025 made further submissions in the matter. As per the reply of the Company, the Company as a matter of policy has stopped issuing ATT guarantees/policies w.e.f. August 29, 2023. Moreover, it has also been confirmed that there is no exposure on the Company with regard to ATT Business.

15. I have examined the facts of the case in light of the applicable provisions of the law and the written as well as verbal submissions and arguments of the Respondents as well as those made through their Authorised Representatives and have observed as under:

- (a) The Respondents have submitted their understanding that custom bonds issued by the Company in respect of ATT business did not fall under 'Credit and Suretyship' class as the Company did not insure goods in transit through such bonds and only provided coverage of loss of duties and taxes payable by the importers to the Government of Pakistan. Accordingly, the ATT business was being classified under 'Miscellaneous' class rather than Bond Business by the Company and resultantly the Suretyship Rules were not applicable to such business. It is important to observe that Company's understanding is entirely misplaced in the subject matter. The Rule 3(1)(h) of the Suretyship Rules explicitly defines Custom Bonds as "*obligations to guarantee Pakistan Customs that if it cannot collect monies due from the Principal (who is required to file the bond) it can seek remedy, upto the bond amount, from the insurer*". The Custom Bonds issued by the Respondent under the ATT were, and admittedly, meant for providing guarantee or assurance to the Customs Department for payment of duties and taxes if the same could not be recovered. Therefore, such policies were bound to be duly classified as 'Custom Bonds' without any equivocation. Moreover, the nature of such policies conforms to the Credit and Suretyship class of insurance business, as recognized under sub-section (3)(a)(vi) of Section 4 of the Ordinance rather than 'Miscellaneous' class. Furthermore, Section 4(4)(f)(iii) of the Ordinance also clearly provides that "*credit and suretyship business*" means *effecting and carrying out contracts for fidelity bonds, performance bonds, administration bonds, bail bonds, custom bonds or similar contracts of guarantee*. Therefore, it is abundantly clear the guarantees/policies issued by the Company under ATT business fell under "Credit and Suretyship Business" class and Suretyship Rules squarely apply on the said business. Therefore, the Company's issuance of 1506 guarantees/policies with aggregate sum assured of Rs. 10.300 billion in FY 2021 and 796 guarantees/policies with aggregate sum assured of Rs. 2.382 billion in FY 2020 under ATT business, where such Custom Bonds were not duly recognized and treated as "Credit and Suretyship Business", constituted a clear violation of Section 4(3)(a)(vi) read with Section 4(4)(f) of the Ordinance.
- (b) It is also pertinent observe that the aforesaid matter of misclassification of ATT business in FY 2022 had already been adjudicated by the Commission vide an Order dated May 6, 2024 where it was clearly stated that "*Admittedly, the policies issued by the Respondent under the Afghan transit trade are essentially meant for providing*

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guarantee or assurance to the Customs Department for payment of duties and taxes if the same cannot be recovered. Therefore, such policies are duly categorized and treated as 'Custom Bond' considering the aforesaid definition of 'Custom Bond', as given under Rule 3(1)(h) of the Suretyship Rules. Moreover, the nature of such policies conform to the Credit and Suretyship Class of Business, as recognized under sub-section (3)(a)(vi) of Section 4 of the Ordinance rather than Miscellaneous Class." Therefore, no further elaboration is required in respect of the said established violation.

- (c) The Respondents have submitted that all exposure in respect of the ATT related Custom Bonds had been placed under facultative reinsurance with a local insurer, leaving no exposure on part of the Company and therefore no collateral was obtained against such guarantees/policies. In this connection, it is noted that the Company issued 796 guarantees/policies with aggregate sum assured of Rs. 2.382 billion in FY 2020 and 1506 guarantees/policies with aggregate sum assured of Rs. 10.300 billion in FY 2021 without obtaining any collateral on grounds that the risk was completely reinsured through local facultative reinsurance arrangements. However, the Respondents have furnished no documentary evidence to substantiate such claim in respect of both the years. In the absence of any such evidence, it is established that the Respondents failed to obtain the required amount of mandatory collateral in respect of FY 2020 and 2021 and have failed to adhere to the requirements of Rule 4(2) of the Suretyship Rules in respect of guarantees/policies issued in FY 2020 and FY 2021. It is pertinent to observe that the matter of issuance of Customs Bonds/guarantees without obtaining collaterals in FY 2022 had already been adjudicated by the Commission vide an Order dated May 6, 2024 where it was clearly stated that *"it has been noted that aggregate sum insured for 208 guarantees/policies issued prior to July 5, 2022 was Rs. 2.168 billion but the Respondent has furnished no documentary evidence to substantiate its claim of effecting facultative reinsurance of its entire exposure on account of the said policies. In the absence of any such evidence, it is established that the Respondent failed to obtain adequate collateral, which constitutes non-compliance with Rule 4(2) of the Suretyship Rules. Subsequent to July 5, 2022, aggregate sum insured was reported by the Respondent as Rs. 4.457 billion against 397 policies. Thus, 10% of sum insured in respect of the said guarantees/policies i.e. an amount of Rs. 445.7 million was required to be procured as collateral; however, no collateral was obtained by the Respondent against the said policies/guarantees. Therefore, the Respondent has failed to ensure compliance with the requirements of Rule 4(2) of the Suretyship Rules."*
- (d) Respondents' submission that risk assessment mechanism was not in place and the risk assessment of prospective clients was not performed in respect of the Custom Bond business as the said business was not considered as Bond Business, especially where the same was mandatory after promulgation of Rule 3A of the Suretyship Rules in July 2022, also does not hold any plausible grounds. As explained and clearly established above, the guarantees/policies issued by the Company under ATT business fell under "Credit and Suretyship Business" and Suretyship Rules were applicable on the said business. Therefore, the Respondents have contravened the requirements of Rule 3A of the Suretyship Rules in respect of the guarantees/policies issued subsequent to July 5, 2022 i.e. date of the respective amendment in the Suretyship Rules.

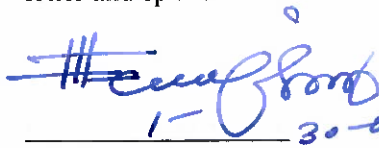
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- (e) Furthermore, it is observed that Company failed to submit the Credit and Suretyship Statements (**FORMS GCS**) in respect of FY 2020 and FY 2021 despite the fact that 796 guarantees/policies were issued in FY 2020 and 1506 guarantees/policies were issued in FY 2021. The Company's submission that the said FORM GCS were not required to be filed as no bonds were issued in FY 2020 and FY 2021 is infructuous in light of detailed discussion held in the preceding paras; thereby resulting in clear contravention with the requirements of Rule 6(1) of the Suretyship Rules in respect of the guarantees/policies issued in FY 2020 and FY 2021. Therefore, the non-recording and non-reporting of the guarantees/policies issued in respect of ATT in FORM GCS for the respective three (03) years in the instant matter have led to falsification of the record of the Company as well as misstatements in the regulatory returns filed with the Commission. Thus, the Respondents have contravened the provisions of Section 45(6) read with Section 45(1) of the Ordinance in respect of FY 2020, FY 2021 and FY 2022.
- (f) It is further observed that the Company has admitted that as a policy, it did not underwrite Bond Business except in certain cases; therefore, a separate bank account was not maintained and now the Company is opening a separate bank account for this purpose. As fully explained in preceding paras, the guarantees/policies issued by the Company under ATT business definitely fall under "Credit and Suretyship Business" and the Suretyship Rules squarely apply on the said business. However, the Respondents have failed to maintain a separate bank account for keeping the amounts of collateral. Under the Suretyship Rules, the collateral amounts are required to be maintained in a separate bank account in order to enable an insurer to meet its obligations with respect to the respective bonds/insurance guarantees. Therefore, the Respondents have failed to ensure compliance with the requirements of Rule 5(1) of the Suretyship Rules in respect of guarantees/policies issued in FY 2020 and FY 2021. It is pertinent to observe that the matter of failure in maintaining a separate bank account for keeping collaterals in FY 2022 had already been adjudicated by the Commission vide an Order dated May 6, 2024 where it was clearly stated that "*Rule 5(1) of the Suretyship Rules requires that amount of collateral procured by an insurer shall be kept in accordance with Section 217 of the Companies Act, which stipulates that "The money so received shall be kept in a special account maintained by a company with a scheduled bank."* However, review of the bank account statement of the Respondent revealed that separate bank account was not being maintained by the Company for this purpose. The stance of the Respondent that money was not utilized by the Company or its Directors or officers is not cogent. The Respondent failed to maintain a separate bank account for keeping the collateral amounts in order to segregate them from other funds. The collateral amounts are required to be maintained in a separate bank account by the Respondent considering its obligations with respect to the respective bonds/insurance guarantees issued against them. Therefore, the Respondent failed to ensure compliance with the requirements of Rule 5(1) of the Suretyship Rules."
- (g) The Company vide reply dated February 28, 2025 has, *inter alia*, stated that certain violations of the Suretyship Rules pertaining to FY 2022 have already been adjudicated vide the Commission's Order dated May 6, 2024 and the Company has already deposited the imposed amount of penalty. In this regard, it is clarified that only those alleged violations of the Suretyship Rules which pertain to FY 2020, FY

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2021 and FY 2022 are being adjudicated through the instant proceedings which were not the subject matter of the previous proceedings.

16. Keeping in view the aforesaid established contraventions of the Suretyship Rules, the earlier adjudication proceedings concluded vide an order dated May 06, 2024 in respect of similar violations during FY 2022 and considering the mitigating factor that the Company has already stopped underwriting the suretyship business pertaining to ATT business w.e.f. August 29, 2023 and has furnished an undertaking in respect of the same, I, in exercise of the powers conferred under Section 156 of the Ordinance and Rule 8 of the Suretyship Rules read with SRO 1545(I)/2019 dated December 06, 2019, am inclined to conclude the instant proceedings with a **WARNING** to the Respondents to remain careful in the future in terms of true and effective compliance of the regulatory framework in letter and spirit.


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Sohail Qadri
Director / Head of Department
Adjudication Department-I

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June 30, 2025
Islamabad