



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I
Adjudication Division

Through Courier

Before the Executive Director

In the matter of Show Cause Notice issued to M/s. IGI Finex Securities Limited

Date of Hearing	January 20, 2020
Present at the Hearing Representing IGI Financial Securities Ltd.	i. Syed Raza Hussain Rizvi (Chief Executive Officer) ii. Mr. Farazullah Khan (Head of Risk & Operations) iii. Mr. Ali Ahmed Noor (Financial Controller & Company Secretary) iv. Mr. Fahad Azeem (Manager Compliance) v. Mr. Shahzeb Haider (Manager Internal Audit)

ORDER

This Order shall dispose of the proceedings initiated against the IGI Finex Securities Limited (the “Respondent”) through Show Cause Notice No. 1(181)SMD/ADJ-1/KHI/2019, dated January 7, 2020 (the “SCN”) under Section 40A of the Securities and Exchange Commission of Pakistan Act 1997 (the “Act”).

2. Brief facts of the case are as follows:

- (a) The Respondent is a Trading Rights Entitlement Certificate (TREC) holder of the Pakistan Stock Exchange Limited (the “PSX”) as well as Pakistan Mercantile Exchange (the “PMEX”) and licensed as a securities broker under the Securities Act, 2015.
- (b) The onsite inspection (the “Inspection”) of the Respondent was conducted by the Commission to ascertain compliance with requirements contained in Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 (the “AML Regulations”).

3. The Inspection revealed non-compliances with the AML Regulations; detailed as under:

- (a) Regulation 11(2) of the AML Regulations requires that the decision to rate a customer as low risk shall be justified in writing. It was revealed that the Respondent failed to provide evidence of recording justification for categorizing seven customers as low risk, in violation of Regulation 11(2) of the AML Regulations.

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- (b) Regulation 4(a) of the AML Regulations requires a securities broker to develop and implement policies, procedures and controls, which are approved by its board of directors, to enable the securities broker to effectively manage and mitigate the risks that are identified in the risk assessment of ML/TF or notified by the Commission. It was revealed that screening process adopted by the Respondent did not have the capacity to search the name of every proscribed persons under Anti Terrorism Act, 1997, and from list of person designated by United Nation Security Council Resolutions adopted by Government of Pakistan. Furthermore, the Respondent did not have any system which can generate alerts about the expiry of client's CNIC, at least one month prior to their actual expiry date as stipulated in Notes to Annexure 1 of the Regulations. Therefore, Respondent was in contravention of the Regulation 4(a) of the AML Regulations on account of aforesaid defaults.
- (c) Regulation 6(8) of the AML Regulations requires a regulated person to categorize each customer as high or low risk, depending upon the outcome of the CDD process. In this regard, the Respondent has categorized risk "Medium" of three instances in violation of Regulation 6(8) of the AML Regulations.

4. It appeared from the preceding that the Respondent *prima facie* acted in contravention of the AML Regulations. Accordingly, the Commission took cognizance of the aforementioned facts and served the SCN requiring the Respondent to explain its stance in person on January 20, 2020. The Respondent vide its letter dated January 16, 2020 submitted reply to the SCN, which is reproduced below:

"....."

a) Para 3(a) of the SCN - Decision to rate a customer as low risk shall be justified in writing

Regulation 11(2) of AML/CFT Regulations, 2018 specifies that "The decision to rate a customer as low risk shall be Justified in writing by the regulated person". The Company uses a risk profiling checklist to assign risk rating to its customers. This checklist was previously prescribed by the Commission in Annexure 3 through initial version of guidelines issued in September 2018 attached at Annexure A (2 pages) to this letter but was subsequently withdrawn due to implementation challenges faced by certain market participants. However, the Company adopted this checklist since the same enables an objective assessment/profiling of each customer. A low risk classification to any account is based on responses to the questions documented in risk profiling questionnaire. Since these are documented in writing, the requirement of Regulation 11(2) of the AML/CFT Regulations, 2018 is fully met. The same were provided to the SECP Inspection Team during inspection for all sampled cases and was attached as Annexure 3 (8 pages) of our letter No. Comp 61/2019 dated November 2, 2019 and Annexure 3 (16 pages) of our letter No. Comp 62/2019 dated November 25, 2019. These documents are once again submitted as Annexure B (24 pages) to this letter for your kind reference.

It is pertinent to mention that Regulation 11(2) does not prescribe any specific form or manner for recording written justification.

b) Para 3(b) of the SCN - Capacity to perform Screening process:

The Company uses Back Connect System which is integrated with an in-house application configured to run the screening process on a daily basis at 4:00 AM and email matches to the compliance officer who then conducts the review to determine





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true and false matches. A sample of system generated emails received by the Compliance Officer were attached at Annexure 8 (5 pages) of our letter no. Comp61/2019 dated November 25, 2019. The same is again submitted as Annexure D (5 pages) to this letter for your kind reference.

Further, as discussed and demonstrated to the Inspection Team, the Compliance Officer individually checks each alert and concludes whether the match is a true or false match based on customer attributes i.e. nationality, father name, age, etc. Accordingly, the Compliance Officer documents the closure of the match generated by the system. In addition, the Compliance Officer also maintains the NACTA list in soft form against which the details are checked for proscribed persons and the evidence of the same was also shared with the SECP Inspection Team through email dated November 6, 2019 at 04:17 pm., and the relevant evidence is again submitted as Annexure E (5 pages) to this letter for your kind reference.

Moreover, the Adverse Media Check through public domain searches is also being performed before establishing relationship with customers and the names and CNIC Nos. of customers are used to perform screening over UNSC Consolidated Sanctions individuals and entities list, FIA Redbook, and Proscribed persons list of NACTA. Hence, it is evident that the Company performs meticulous screening at the time of establishing the business and during the continuation of relationship with customers.

Expired CNICs follow up and mechanism to ensure compliance of Regulation 4(a):

In relation to the aforesaid observation, we would like to state that in order to comply with the requirement of regulation 4(a) and Annexure 1, the Company has a system whereby a report is generated on a monthly basis from our system for CNICs that are about to expire in next 30-60 days range. An email to all such customers is sent to provide updated CNICs to enable the Company to maintain and update its records. Please refer Annexure F (4 pages) for list of customers to whom emails have been sent where CNICs are due to expire based on report generated by the system. Further, log of email sent to clients where CNIC is expired was shared with the SECP Inspection team at Annexure 5 (1 page) of our letter no. Comp61/2019 dated November 25, 2019. The same is also attached as Annexure F/1 (1 page) to this letter for your kind reference.

This clearly reflects that the Company has a vigilant alert and follow-up mechanism which ensures that CNICs of customers that are about to expire are timely identified.

Further, for legacy customers whose CNICs are not available or have expired, the Company conducts regular follow-up and as soon as a customer provides his/her current CNIC in follow-up or at least share CNIC number with new date of issue, NADRA Verisys is performed and updated in customer's file.

Furthermore, Regulation 4 of AML/CFT Regulations, 2018 requires a regulated person to implement such measures which are commensurate with the complexity and size of operations of the entity and the Company believes that the existing process is not in contravention of the AML Regulations.

c) Para 3(c) of the SCN - Categorize each customer as high or low risk:

Regulation 6(8) provides that each customer shall be categorized high risk or low risk, depending upon the outcome of the CDD process, which is precisely being done by the Company.





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AML/CFT Policy of the Company has been prepared in accordance with the AML/CFT Regulations, 2018 and in the light of SECP AML/CFT/PF guidelines issued by SECP in 2018. These guidelines mention a note on Pages 28 and 29 that "When conducting risk assessment, RP does not have to follow the processes in this guideline. As long as you comply with your obligations under the Act and any other applicable laws or regulations, you can choose the method of risk assessment that best suits your business. For example, large financial institutions may have their own systems and methodology for conducting a risk assessment. However, it should be prepared to explain and demonstrate to the Commission, the adequacy and effectiveness of procedures, policies and controls." Further, Annexure 1 of Preparing AML/CFT Risk Assessment" also depicts three types of internal risk rating by the company, that is Low risk, Medium risk and High risk.

Further, the Company assesses its entity-level risk across product type, customer type, geography and delivery channels assigning low risk, medium risk and high risk category to each area. Therefore, in our humble opinion, the Company is not in contravention of Regulation 6(8) and risk categories are assigned in accordance with the Regulations and Guidelines issued by SECP."

5. The Respondent was accorded an opportunity of personal hearing dated January 20, 2020. The hearing was attended by Mr. Raza Hussain Rizvi (Chief Executive Officer), Mr. Farazullah Khan (Head of Risk & Operations), Mr. Ali Ahmed Noor (Financial Controller & Company Secretary), Mr. Fahad Azeem (Compliance Officer) and Mr. Shahzeb Haider (Manager Internal Audit) as Authorized Representatives. During the hearing proceedings, the Authorized Representatives reiterated the argument as submitted in response to the SCN.

6. I have examined the written as well as oral submissions of the Respondent and its Authorized Representatives. In this regard, I observe that:

- a. The contention of the Respondent that in order to comply the requirements of Regulation 11(2) of the AML Regulations, Respondent was using risk profiling checklist adopted for KYC/CDD, wherein a low risk classification to any account/customer is based on responses to the questions documented in risk profiling questionnaire. The same was also exhibited by the Respondent as an evidence in support of its argument. Considering the fact that risk category were marked by the Respondent along with the elements which could impact risk categorization of the customer, the argument of the Respondent is justifiable and no violation has been established in the identified instances.
- b. In respect of compliance of Regulation 4(a) in context of requisite screening, the Respondent has taken reasonable steps which were evident from the presented record of performing requisite screening process. The Authorized Representative of the Respondent submitted during the hearing that the reason of missing two names in test search report of automated system was due the fact that the related circular was not updated on the NACTA website. Further, the Authorized Representatives informed that the Respondent has deployed a system to get report on monthly basis for CNICs expiring in next 30-60 days range. However, Respondent has failed to furnish an evidence to depict that the said system was in place and functional at the time of Inspection. Therefore, contravention of Regulation 4(a) of the AML Regulations on account of above defaults is evident.



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c. The Respondent in support of its stance i.e. categorizing medium risk to three customers has highlighted the page 28 & Page 29 of the SECP's guideline on AML Regulations issued in September 2018, which allow the Respondent to categorize customer as low risk, medium risk and high risk. Further, AML department of the Commission has confirmed that that in view the feedback from industry and supervisory teams regarding customer categorization as "medium" risk, the AML Regulations 2018 are being amended to include moderate risk category for customer's rating. Therefore, considering the aforesaid the alleged violation of Regulation 6(8) of the AML Regulations against the Respondent is unwarranted.

7. In view of the foregoing and admission made by the Representatives, contraventions of the provisions of AML Regulations have been established. Therefore, in terms of powers conferred under section 40A of the Act , a penalty of **Rs. 350,000/- (Rupees three hundred fifty thousand)** is hereby imposed on the Respondent, The Respondent is advised to examine its AML/CFT policy & procedures to ensure that the requirements contained in the AML Regulations are met in letter and spirit.

8. 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 the date of this Order and furnish Original Deposit Challan to this office.

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



(Ali Azeem Ikram)

Executive Director (Adjudication Department-1)

Announced on March 9, 2020
Islamabad