



# SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

## Adjudication Department- I

### Adjudication Division

ORDER	
Name of Company:	Exide Pakistan limited
Show Cause Notice No. & Date:	No. CSD/ARN/59/2024-711 dated December 17, 2024
Respondents:	(i) Mr. Arif Hashwani, Chairman; (ii) Mr. Arshad Shehzada, Chief Executive; (iii) Mr. Altaf Hashwani, Director; (iv) Mr. Hussain Hashwani, Director; (v) Ms. Zaver Hashwani, Director; (vi) Mr. Amin Manji, Director; (vii) Mrs. Navin Salim Merchant, Director; and (viii) Syed Haider Mehdi, Chief Financial Officer; and
Date(s) of Hearing(s):	(i) January 13, 2025 (ii) January 31, 2025
Case represented by:	(i) Syed Aminuddin Fakir of S.A. Fakir & Co. and (ii) Syed Haider Mehdi, Chief Financial Officer; (as Authorized Representatives)
Provision of law involved:	Section 237 of the Companies Act, 2017 read with Section 479 thereof and Circular 11 of 2023 dated August 11, 2023
Date of Order	March 27, 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. CSD/ARN/59/2024-711 dated December 17, 2024 (the “SCN”) against the Board of Directors (the “BOD”) and the Chief Financial Officer ( the “CFO”) of M/s Exide Pakistan Limited (the “Company”) hereinafter collectively referred to as the “Respondents” under Section 237 read with Section 479 of the Companies Act, 2017 (the “Act”) and Circular No. 11 of 2023 dated August 11, 2023 (the “Circular”).

2. The provisions of sub-section (1) of Section 237 of the Act require all public listed companies to prepare its quarterly financial statements within thirty days of the close of their first and third quarters of their year of accounts and within sixty days of the close of their second quarter of their year of accounts. Sub-section (2) of Section 237 of the Act requires the listed companies to post on their website quarterly financial statements for information of members and also electronically transmit the same to the Commission, securities exchange and with the registrar within the period specified under sub-section (1).

3. The brief facts of the case are that the Company being public listed company was required to electronically transmit its first quarterly financial statements for the quarter ended June 30, 2024 with the Commission / registrar, and post the same on its website, within thirty (30) days of the close of the said quarter i.e. latest by July 30, 2024. However, as per the relevant record of the Commission, it has *prima facie* failed to file/transmit the aforesaid quarterly financial statements with the Registrar/Commission within stipulated time and file/ transmit the same with the Registrar/Commission with a delay of seventeen (17) days i.e. on August 16, 2024.

4. As per the requirements of the Circular No 11 of 2023, all listed companies are *inter alia* required to file their quarterly financial statements (“QFS”) through eService/eZfile of the Commission, and such filing is considered as compliance of Section 237(2) of the Act with respect to filing/transmission of QFS to the Commission / registrar. Failure to Comply with the mandatory provisions of Section 237 of the Act attracts penal action as provided under Section 237(4) of the Act. The relevant provisions of law are reproduced hereunder:

**“237. Quarterly financial statements of listed companies. — (1) Every listed company shall prepare quarterly financial statements within a period of :-**

- a) *thirty days from the close of first and third quarters of its year of accounts; and*
- b) *sixty days from the close of its second quarter of its year of accounts.*

*(2) The quarterly financial statements shall be posted on the company’s website for the information of its members and also be transmitted electronically to the Commission, securities exchange and with the registrar within the period specified under sub-section (1).*

*(3).....*

*(4) If a company fails to comply with any of the requirements of this section, every director, including chief executive and chief financial officer of the company who has by his act or omission been the cause of such default shall be liable to a penalty of level 2 on the standard scale.”*

5. Taking cognizance of the alleged violation of law, a SCN was served upon the Respondents on December 17, 2024 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 Section 237 of the Act read with the Circular. However, no response to the SCN was received and timeline for submission of the written response to the SCN was extended twice till January 20, 2025 and January 30, 2025 on request of the Authorized Representative. The Authorized Representative of the Respondents vide letter dated January 30, 2025, submitted a written response to the SCN, interalia, submitted the following:

- (i) The Company is a responsible corporate citizen and strives to maintain the highest corporate standards. As a testament to the Company's good governance and exemplary compliance record, it has received the top twenty-five companies' award eight times from the Pakistan Stock Exchange (PSX). The Respondents have always performed their professional duties with diligence and integrity and are committed to ensuring adherence to all company law.
- (ii) The Respondents have diligently fulfilled their fiduciary duties to ensure compliance with Section 237 of the Act by approaching the Commission on July 23, 2024. However, since the Commission’s response was received by the Company on August 2, 2024, the Respondents may not be penalized in the circumstances.
- (iii) The Respondents No. 1,3,4,6, and 7 are independent/non-executive Directors and accordingly may not be held liable in view of Section 181 of the Act since they have exercised diligence during the course of their duties.
- (iv) The Respondents, being cognizant of the mandatory requirements of Section 237 of the Act, made timely arrangements for the preparation, approval and filing/transmission of meaningful



and adequate QFS for the first quarter ended June 30, 2024. Accordingly, to comply with the provisions of Sections 232 and 237 of the Act, the Board Meeting to approve the QFS was scheduled for 30 July 2024.

- (v) On July 15, 2024, the Respondent No 8 informed the PSX that the Board meeting for the approval of the QFS was scheduled for July 30, 2024. Notices in this regard along with Agenda for the said Board Meeting dated July 30, 2024 were sent to the Directors on July 22, 2024.
  - (vi) The steps were taken to ensure the timely preparation, approval and filing of meaningful and adequate QFS, regrettably there was a delay in the preparation thereof due to circumstances beyond the control of the Respondents.
  - (vii) In mid-June and July Karachi was affected by an extreme heatwave with record-breaking temperatures, which led to a sharp rise in heat-related illnesses. Due to the heatwave, three key officials actively involved in preparing QFS fell ill.
  - (viii) The Respondents made efforts to finalize the QFS before July 30, 2024 and contemplated placing provisional accounts before the Board, but General Manager Finance whose input was critical to the process was severely ill and was not even able to assist remotely.
  - (ix) This situation was compounded by the intervening Ashura holidays and weekends, and it became clear that adequate and meaningful preparation of the QFS in line with the requirements of Section 237 of the Act would not be possible prior to July 30, 2024.
  - (x) To ensure transparency and regulatory compliance with the Act, the Listed Companies (Code of Corporate Governance) Regulations, 2019 ("CCG") and the PSX Rule Book, on July 23, 2024 the Respondent No. 8 proceeded cautiously by informing the Commission of the circumstances, and applied for an extension to hold the Board Meeting for approval of the QFS on August 15, 2024.
  - (xi) In the interest of transparency and to protect the shareholders' interests, the Respondent No. 8 also wrote to the PSX on 26 July 2024 for informing the situation and advising that the Company had sought an extension from the Commission for the Board Meeting to approve the QFS to be held on August 15, 2024.
  - (xii) The Commission vide its letter dated August 1, 2024, received by the Company on August 2, 2024, disposed of the Company's application for extension in time for holding the Board Meeting for approval of QFS by stating that no provision of law existed for such an extension to be granted.
  - (xiii) The Respondents were operating under the assumption that the extension would be granted, and accordingly had advised the PSX in compliance with the PSX Rule Book and made all other necessary arrangements for the Board Meeting in accordance with the Act and CCG. However, since the Company received the Commission's reply on August 2, 2024 i.e. after passing the statutory time line to file/transmit QFS, in the best interest of shareholders, the Respondents had no alternative but to proceed as planned, as the PSX and Directors had already been notified of the revised Board Meeting date and the designated Close Period.
6. In order to provide an opportunity for personal representation, a hearing in the matter was fixed for January 13, 2025. However, the same was adjourned on request of the Authorized

Representative of the Respondents. To meet the ends of justice another hearing in the matter was fixed for January 31, 2025, which was attended by Syed Aminuddin Fakir, Advocate, S.A Fakir & Co.; on behalf of the Respondents as their Authorized Representatives (“**Authorized Representative**”). The Authorized Representative reiterated the stance taken in the written response and further asserted that the Respondents had made genuine efforts to fulfill the mandatory requirements of the Act, therefore, a nominal delay of seventeen (17) days in filing/transmitting the QFS be excused and assured that all future filing will be completed on time.

7. I have gone through the relevant provisions of Section 237 of the Act and the requirements of the Circular No. 11 of 2023, and considered the facts of the case, available record of the Company, as well as written and verbal submissions of the Respondents and the Authorized Representative. I have also perused Section 237(4) of the Act, which stipulates penal provisions for contravention of the afore-referred provisions of law. I have noted that in terms of Section 237(2) of the Act, every listed company is required to file/transmit its QFS within thirty (30) days from the date of close of its first quarter of its year of accounts. QFS are a crucial source of information for the stakeholders, especially shareholders, of a publicly listed company. It provides timely insights into a company’s financial performance and such information is essential for assessing the company’s overall financial health.

8. The provisions of Section 237 of the Act unambiguously and explicitly obligate the Company to file/transmit its QFS in a timely manner. In this respect, reliance is placed on an Order passed by the Appellate Bench of the Commission on March 01, 2023 (*in Appeal No. 73 of 2022- Gulistan Textile Mills Limited, vs. SECP*), whereby it was held that a public listed company has higher responsibility to disseminate true and accurate state of affairs to all the stakeholders in a timely manner so that they may take appropriate decisions. In another case cited as 2024 CLD 672 [*Appeal No. 77 of 2021 decided on August 25, 2023*], the Appellate Bench of the Commission held that “...interim financial statements prepared accurately and in timely manner, provide a reliable source of information regarding a company’s financial position and performance to its users, besides illustrating regarding the results of the management’s stewardship of resources entrusted to it...” The significance of transmitting quarterly financial statements of a listed company in a timely manner is also echoed in 2024 CLD 635 – Appeal No. 78 of 2021 decided on August 25, 2023, and 2024 CLD 415 – Appeal No. 97 of 2020 decided on August 25, 2023.

9. The Company, being a listed entity, was required to electronically transmit its QFS for the period ended June 30, 2024, to the Commission/Registrar and post the same on its website by July 30, 2024, in accordance with the mandatory provisions of Section 237(2) of the Act read with Circular No. 11 of 2023. However, the Company has failed to fulfill this statutory requirement within the prescribed timeframe, as evidenced by the relevant record of the Commission.

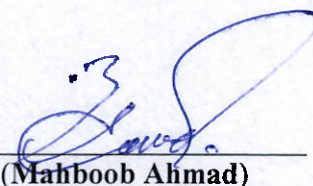
10. It is pertinent to mention that Section 181 of the Act provides that “(a) an independent director; and (b) a non-executive director; shall be held liable, only in respect of such acts of omission or commission by a listed company or a public sector company which had occurred with his knowledge, attributable through board processes, and with his consent or connivance or where he had not acted diligently.”

Based on the above, independent and non-executive directors also bear the responsibility for ensuring compliance with the Act. They are required to exercise due diligence in adhering to legal requirements and there is no exemption provided in term of section 237(4) of the Act which, *inter alia*, provides that “every director, including chief executive and chief financial officer of the company who has by his act or omission been the cause of such default shall be liable to a penalty.”

11. The Respondents contended that the Company's failure to prepare and file/transmit the QFS for the period ending June 30, 2024, was primarily due to the illness of three key officials. Pakistan Case Laws - Pakistan Telecommunication Company Limited v. Wateen Telecom Limited (CLD 2019 Lahore 1213): The Lahore High Court held that *"the failure to maintain a backup system for critical infrastructure was not a force majeure event, but rather a result of the company's own negligence"*. Ensuring timely compliance with legal and regulatory requirements is the fundamental responsibility of the BOD and the management, regardless of internal challenges. They also assumed that by writing to the Commission on July 23, 2024, to request an extension for holding the Board meeting for QFS approval until August 15, 2024, the requisite extension had been granted. This underscores the Company's inadequate governance and contingency planning. The Respondents' admission of such problems actually reflects a lack of proper succession planning and internal controls, which a well-governed company must have to prevent such lapses. The obligation to file/transmit the QFS within the prescribed timeline is absolute, and any failure to do so constitutes a contravention of Section 237 of the Act.

12. It is observed that the Respondents while recognizing their obligation to the shareholders/regulator as well as requirements under the Act, adopted a prudent approach by writing the Commission and informing the PSX regarding the possible delay in filing/transmitting the QFS owing to the reasons stated above. This demonstrates the Respondents' efforts to ensure compliance with the regulatory requirements, however, the QFS were file/transmitted with a delay of seventeen (17) days.

13. In view of the preceding facts, I am of the considered view that by failing to file/transmit the QFS to the Commission and to upload the same on the Company's website within the prescribed timeframe, the contravention with the requirements of Section 237 of the Act has been established beyond doubt which attracts penal action in terms of sub-section (4) of Section 237 of the Act. I have also given due attention to the grounds presented by the Respondents and their Authorized Representative to the said non-compliance. Due consideration has also been given to the previous compliance history of the Company and the fact that the QFS for the period ended June 30, 2024 has been approved, filed/transmitted, and uploaded on the Company's website on August 16, 2024 i.e. with seventeen (17) days delay. I, therefore, in exercise of the powers conferred upon me under sub-section (4) of Section 237 of the Act, vide S.R.O. 1545(I)/2019 dated December 06, 2019, hereby, strictly **WARN** the Respondents and advise them to ensure meticulous compliance with the applicable legal and regulatory framework in future.



(Mahboob Ahmad)

Additional Director/ Head of Wing  
Adjudication Department-I

**Announced:**  
Dated: March 27, 2025  
Islamabad