



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

ORDER	
Name of Company:	M/s. Shadman Cotton Mills Limited
Show Cause Notice No. & Date:	CSD/ARN/266/2016-459 dated September 30, 2024
Respondent(s):	(i) M/s. Shadman Cotton Mills Limited; (ii) Mrs. Ghazala Shahid, Chairperson/ Non-Executive Director; (iii) Mr. Shahid Mazhar, Director; (iv) Mr. Ahmed Bin Shahid, Director; (v) Mr. Muhammad Afnan Shahid, Director; (vi) Mr. Muhammad Akhtar, Director; (vii) Mr. Nadeem Bhatti, Director; and (viii) Mr. Hamid Basir, Director
Date(s) of Hearing(s):	December 31, 2024
Case represented by:	Mr. Rashid Sadiq – <i>Legal Consultant</i> (As Authorized Representative)
Provision of law involved:	Circular No. 10 of 2019 dated July 03, 2019 and S.R.O. 423 of 2018 dated April 03, 2018 read with Section 238 of the Companies Act, 2017 and Section 510 thereof.
Date of the Order:	May 19, 2025

This Order shall dispose of the proceedings initiated by the Securities and Exchange Commission of Pakistan (the “Commission”) through Show Cause Notice No. CSD/ARN/266/2016-459 dated September 30, 2024 (“SCN”) issued to M/s. Shadman Cotton Mills Limited (the Company) and its Board of Directors including the Chief Executive Officer, hereinafter collectively referred to as the “Respondents”, under Circular No. 10/ 2019 dated July 03, 2019 (the Circular) and SRO 423/ 2018 dated April 03, 2018 (the SRO) read with Section 238 of the Companies Act, 2017 (the Act) and Section 510 thereof.

2. Provisions of Clause (ii) of the Circular, while consolidating the applicable requirements for filing of notices of general meetings with the Commission, requires filing of copies of the notice published in English and Urdu morning newspapers having nationwide circulation and are generally known and read; along with the statement as required under section 134 of the Act with the Commission **within three (03) days of publication** of the same. Moreover, Clause (iii) of the Circular requires that Notice of general meeting, along with statement under section 134 of the Act, where applicable, shall also be transmitted to the SECP through fax or email at the email address general.meetings@secp.gov.pk. Clause C-1 of the SRO further requires a listed company to simultaneously dispatch a copy of the notice of the general meeting in which a special business is to be transacted along with the statement of material facts to the head office of the Securities and Exchange Commission of Pakistan through fax or email and courier service on the same day it is dispatched to the members.

3. Furthermore, the SRO requires the Company, where applicable, while issuing notice of its general meeting, where a special business is to be transacted, to annex a statement pursuant to sub-section (3) of Section 134 of the Act detailing the minimum information including the statement of

Handwritten signature and date:
19-05-2025

material facts concerning such business. Furthermore, Clause A-2 of the SRO requires the disclosure of material facts pertaining to the alteration of memorandum with respect to the principal line of business [Section 32(b) of the Act] which, amongst others, requires a Company to disclose the following information in the statement of material facts:

- i. Benefits likely to accrue to the company and its members from the proposed change
- ii. Financial projections, including, inter alia, project cost for new proposed principal business, sources of funds to cover the project cost, revenues, expenses etc. along with underlying assumptions.
- iii. Impact on the existing line of business of the company;
- iv. Expected time period when proposed change is expected to be implemented; and
- v. A statement by the board that the proposed change will not be detrimental to the interest of the company or its members as a whole.

4. Brief facts of the case are that review of the relevant records of the Commission and the minutes of the Extraordinary General Meeting (the "EOGM") of the Company held on July 22, 2024 as placed on Pakistan Stock Exchange's (PSX) website on July 30, 2024 revealed that the Company conducted a special business related to the alteration in its Memorandum of Association (MoA) concerning the principal line of business. The Notice of EOGM was published in 'Daily Asas' and 'The Nation' on June 29, 2024. In terms of the requirements of the Act, Circular and the SRO, the Company, *prima facie*, failed to:

- i. file copies of the notice of EOGM published in the newspapers, along with statement of material facts under Section 134 of the Act, with the Commission as per the requirement of Clause (ii) of the Circular;
- ii. file and transmit the notice of general meeting, along with statement of material facts, to the Commission through fax or email at the email address general.meetings@secp.gov.pk as per the requirement of Clause (iii) of the Circular and Clause C-1 of the SRO; and
- iii. Provide the complete information in its statement of material facts annexed with the Notice as required by Clause A-2 of the SRO, where the Company specifically failed to provide information as jotted in para-3 above.

5. In order to probe, the matter was taken up with the Company vide Commission's email dated August 21, 2024 which in its response email dated September 07, 2024 submitted newspaper clippings of the published notice of the EOGM and, *inter alia*, submitted:

"As the non-sending the EOGM notice to the Commission was not intentionally but was inadvertently due to oversight and also due to non-reading of Circular 10/2019 dated 03-07-2019, therefore, you are requested to kindly condone the said delay with the affirmation to be most conscious and vigilant in future..."

6. In view of the afore-mentioned instances, the Respondents, *prima facie*, contravened the provisions of Clause (ii) and (iii) of the Circular and Clause A-2 and C-1 of the SRO read with Section 238 and Section 510 of the Act which attract penal provisions provided in sub-section (2) of Section 238, sub-section (2) of Section 510 of the Act read with Section 479 thereof. The relevant provisions are reproduced below for reference:

Order in the matter of Board of Directors of M/s. Shadman Cotton Mills Limited
Dated 19th of May, 2025

Handwritten signature and date:
19-05-2025

"Section 238(2) of the Act:

... (2) Any contravention or default in complying with requirement of this section shall be an offence liable to a penalty of level 3 on the standard scale.

Section 510(2) of the Act:

... (2) Any person, who obstructs or contravenes or does not comply with any directive, prudential requirements, codes, circulars or notifications, given under this section shall be liable to a penalty of level 3 on the standard scale."

7. In order take cognizance in the instant matter, SCN was issued to the Respondents to show the cause in writing as to why a penal action may not be taken for non-compliance of the mandatory requirements of the Act, the Circular and the SRO. In response to SCN, the Company vide letter dated October 07, 2024 requested for further time for submission of written response. Subsequently, the Company vide letter dated November 02, 2024, *inter alia*, submitted:

...
3. *That the contents of Paragraph 1 of the SCN, as laid out are not denied. However, the non-publication of a prior notice of EOGM with the Pakistan Stock Exchange (herein after the "PSX") is cognizable by the PSX.*

...
5. *That the contents of Paragraph 3 of the SCN, as laid out, are denied as the notice of meeting clearly mentioned that a new object clause is being added which is necessary for expansion and to do to other business in addition to textiles manufacturing, financial projections are required only when the Company changes its principal line of business whereas the Company is adding one more business in its principal line of business which is also related to textiles as well as other businesses. The Company regrets that the information required by SRO could not be in the given format.*

6. *That the contents of Paragraph 4 of the SCN, as laid out, are not denied. It is, however, submitted that the Company could not ensure complete compliance due to inadvertence.*

...
9. *We hope the above is found satisfactory and it is prayed that the SECP may be pleased to withdraw the SCN in light of the above discussion without any adverse consequences in consideration of the Company's commitment to ensure compliance with the applicable law."*

8. In order to provide opportunity of personal representation, hearing in the matter was fixed for December 31, 2024, where, Mr. Rashid Sadiq (*Consultant*) appeared on behalf of the Respondents as the Authorized Representative (the "**Authorized Representative**"). The Authorized Representative made further submissions during the hearing proceedings, which were supported and supplemented vide an email dated January 02, 2025. Relevant extracts are re-produced as under:

"As desired, a summary of legal arguments is placed below for your kind perusal:

Circular:

1. *The Circular 10/2019 dated July 03, 2019 ('Circular') has been issued under Section 510 of the Act apparently for carrying out the purposes of the Act. Section 510 of the Act, in relevant part, provides as under:*

*#cecep/foad
1-19-05-2025*

“510. Power to issue directives, circulars, guidelines.-(1) The Commission may issue such directives, prudential requirements, codes, guidelines, circulars or notifications as are necessary to carry out the purposes of this Act and the rules and regulations made under this Act.”

2. The text of the Circular indicates that it has been issued by way of supplementation of Sections 132 and 133 of the Act. Section 132 of the Act provides for issuance of a notice in relation to an annual general meeting ('AGM') atleast 21 days before the date of the AGM. Section 133 of the Act provides for the calling of an extra-ordinary general meeting ('EOGM') and, in contrast to both Section 132 of the Act and Section 159(7) of the repealed Companies Ordinance, 1984 (the '**Ordinance**') which specifically provided for a 21 day notice period in relation to EOGMs, does not provide for a 21 day notice period. The mentioned provisions, in relevant part, are reproduced hereunder for ease of reference and comparison:

Section 132(3) of the Act:

“(3) The notice of an annual general meeting shall be sent to the members and every person who is entitled to receive notice of general meetings at least twenty-one days before the date fixed for the meeting:

Provided that in case of a listed company, such notice shall be sent to the Commission, in addition to its being dispatched in the normal course to members and the notice shall also be published in English and Urdu languages at least in one issue each of a daily newspaper of respective language having nationwide circulation.” (emphasis provided)

Section 159 of the Ordinance:

“(7) Notice of an extraordinary general meeting shall be sent to the members at least twenty-one days before the date of the meeting, and in the case of a listed company shall also be published in the manner provided for in sub-section (3) of section 158:

Provided that, in the case of an emergency affecting the business of the company, the registrar may, on the application of the directors, authorise such meeting to be held at such shorter notice as he may specify.” (emphasis provided)

Section 133(8) of the Act:

“(8) Notice of an extra-ordinary general meeting shall be served to the members in the manner provided for in section 55:

Provided that in case of a company other than listed, if all the members entitled to attend and vote at any extraordinary general meeting so agree, a meeting may be held at a shorter notice.”

3. As evident from the above, the current law on notification requirements in relation to EOGMs does not prescribe a notification period and merely refers to Section 55 of the Act for the manner in which notices are to be served. It may be noted that Section 55 of the Act also does not speak of a notification period to be complied with for purposes of EOGMs. Section 55 of the Act is reproduced hereunder for ease of reference:

Handwritten signature and date: 19-05-2025

“55. Service of notice on a member.—(1) A document or information may be served on a member at his registered address or, if he has no registered address in Pakistan, at the address supplied by him to the company for the giving of notices to him against an acknowledgement or by post or courier service or through electronic means or in any other manner as may be specified.

(2) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and, unless the contrary is proved, to have been effected at the time at which the letter will be delivered in the ordinary course of post.

(3) A notice may be given by the company to the joint-holders of a share by giving the notice to the joint-holder named first in the register in respect of the share.

(4) A notice may, in the manner provided under sub-section (1), be given by the company to the person entitled to a share in consequence of death or insolvency of a member addressed to him by name or by the title or representatives of the deceased or assignees of the insolvent or by any like description, at the address supplied for the purpose by the person claiming to be so entitled.”

4. Where Section 133 of the Act does not provide for a notice period in relation to EOGMs, the Circular is ultra vires the provisions of Section 133 of the Act where the legislature does not intend for a 21-day notice period to apply to the holding of EOGMs. This intent is evident from the deliberate repeal of the, requirement for a 21-day notice and its publication, as was previously expressly ordained through Section 159(7) of the repealed Ordinance. There is also no requirement of filing of notice of EOGM with the Commission unlike in the case of AGMs where the requirement has been specifically stipulated in Section 132(7) of the Act.

SRO:

5. The SRO 423/2018 dated April 03, 2018 ('SRO') seeks to rely on Section 238 read with Section 510 of the Act to notify disclosure requirements above and beyond those provided for in Section 134(3) of the Act. Section 238 of the Act is a specifically limited law that allows the SECP to seek additional statements of accounts and reports **through an order, general or special,** of the Commission which is a distinctly separate instrument from a notification. Section 238 of the Act provides as under:

“238. Power of Commission to require submission of additional statements of accounts and reports.—(1) Notwithstanding anything contained in any other provision of this Act the Commission may, by general or special order, require companies generally, or any class of companies or any particular company, to prepare and send to the members, the Commission, the registrar, the securities' exchange and any other person such periodical statements of accounts, information or other reports, in such form and manner and within such time, as may be specified in the order.

(2) Any contravention or default in complying with requirement of this section shall be an offence liable to a penalty of level 3 on the standard scale.” (emphasis provided)

#eeewfomb
1-5-2025
19-05-2025

6. *As is evident from the above reproduced law, the call for the periodical statement or reports or information relates to the financial accounts / reports which is also subject of the Chapter which in the opinion of the Commission would be required to be prepared and sent to the Commission, members, registrar and securities exchange. The SRO cannot be construed as an order of the Commission where it is self-evidently in the form of a notification issued pursuant to provisions of Section 510 of the Act.*
7. *Where Section 238 of the Act provides for its own mechanism of requiring additional periodical statements, periodical reports or periodical information, Section 510 of the Act cannot be employed to override such mechanisms and apply Section 238 of the Act in a manner that may enhance the requirements of Section 134(3) of the Act which does not itself allow for specification, through notification, of additional disclosure parameters for purposes of the statement of special business provided for in the law.*
8. *It is submitted that the SRO is ultra vires the scope of primary law as envisaged in Section 134(3) of the Act and Section 238 thereof, therefore, cannot be relied on to penalize non-compliance as it does not have the force of law.*

We also request for equal treatment and uniform application of the law in terms of Article 25 of the Constitution of Pakistan and Section 20 (6) (c) of the SECP Act, 1997. We can send you the Commission's judgments where no fine has been imposed in a large number of cases"

9. I have reviewed the facts of the case and also considered the written and verbal submissions made by the Respondents and their Authorized Representative. I have also reviewed the provisions of the law in the instant matter, especially the relevant Clauses of the Circular and the SRO along with Section 238 and Section 510. I have also perused the provisions of Section 134 and Section 2(66) of the Act for guidance on a particular aspect relating to EOGM. At this juncture, it is important to discuss the following legal and factual elements of the case:

- i. With regard to the filing of published copy of the notice of EOGM with the Commission, the Respondents admitted the oversight made on their part vide email dated September 06, 2024 and in their response to the SCN dated November 02, 2024. The Respondents also submitted copies of newspapers, both English and Urdu, having nationwide circulation, in which the notice of EOGM along with a statement of material facts was published vide their email dated September 06, 2024 *albeit with a delay*. In this regard, it has been observed that the Respondents were required to file such copies to the Commission within three (3) days of the publication. However, failing to do the same, the Company has contravened the requirements of Clause (ii) of the SRO.
- ii. With regard to the requirement of transmission of notice of general meeting to the Commission, the Respondent again admitted that it was inadvertently missed due to non-reading/ignorance of the Circular and thereby requested to take a lenient view in the matter. Therefore, the Company was found non-compliant with Clause (iii) of the Circular and Clause C-1 of the SRO. With regards to the contention that the Respondents were not aware of the requirements, it is an established principle that ignorance of law is not an excuse. Under the principle of *ignorantia juris non excusat*, it is understood that individuals, particularly those in key positions such as executive officers and directors are aware of their statutory obligations and

19-05-2025

are vigilant about the same.

- iii. With regard to the deficiencies observed in the statement of material facts annexed to the notice of EOGM, which was circulated to the members, it was submitted that notice of EOGM mentioned of only a new object clause being added in the MoA instead of changing the entire principal line of business and it was Respondents' understanding that the same does not amount to changing the principal line of business and did not require inclusion of financial projections and other necessary details which are only required when the Company changes its principal line of business. In this regard, it is observed that understanding of the Respondents is entirely misplaced as the Commission in exercise of its powers conferred under Section 238 of the Act read with Section 510 thereof, has clearly prescribed detailed information in the SRO relating to the disclosure of material facts where special resolution of members is required for Alteration in the MoA with respect to principal line of business [Section 32(b) of the Act] without any exception. The published notice of EOGM clearly indicated a change in principal line of business and amendment to this effect in the MoA; wherein the Company added the following object clause in its MoA:

Existing principal line of business:

1. To carry on the business of spinning of yarn.

Proposed principal line of business:

1. To carry on the business of spinning of yarn.
2. To establish an industrial undertaking and to carry on the business of manufacturing, importing, exporting, buying, selling, trading, dealing and providing of services of all types and kinds of textile and textile products, stitching garments/made-ups, clothing, knit wears, spinning and weaving, hosieries, denim and all other allied commodities of all types and kinds of textile and textile products and to do the business of dairy products, agriculture products, power generation, construction, rental of buildings, plants and machineries to do such other business that is identical to the above and allied objects.

In view of the above, it is observed that the Company has not only substantially enhanced the scope of its business to include the textile related products but also other lines of businesses which may significantly impact the financial projections of the Company including its revenues and expenditures along with any underlying assumptions. Furthermore, the proposed changes carry a potential impact upon its existing line of business and hence, the Respondents were required to present a complete statement of material facts regarding its alteration of MoA as envisaged in Clause A-2 of the SRO. In this regard and the fact that partial information was disclosed in the statement of compliance, 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.* Therefore, the Respondents, by not following the prescribed format in a complete and comprehensive manner for presenting the statement of material facts to the

Handwritten signature and date:
19-05-2025

members as per the SRO, have contravened the provisions of Clause A-2 of the SRO.

- iv. Moreover, with reference to the email dated January 2, 2025, the Authorized Representative contends that Section 133 of the Act does not prescribe a twenty-one (21) days notice period for an EOGM, unlike Section 132 which explicitly requires such notice for an Annual General Meeting (AGM). It is further argued that since Section 133 refers to Section 55 of the Act for the manner of service and not the period, no mandatory twenty-one (21) days notice is required under the Act for EOGMs and the same cannot be prescribed by the Commission through the SRO. Upon examination, it is observed that Section 510 of the Act expressly empowers the Commission to issue directives, circulars, and notifications necessary to carry out the purposes of the Act. The Circular in question was issued under this authority to supplement legislative intent and ensure consistency in the procedural requirements for convening general meetings, particularly in listed companies. A circular issued under Section 510 serves to provide regulatory guidance where the law allows for the same. Therefore, the Circular is *intra vires* the law and validly prescribes the twenty-one (21) days notice requirement for EOGMs in listed companies to protect shareholders' right to timely information and equitable participation. Moreover, guidance on the subject can also be sought from reading the provisions of Section 134 (3) with Section 2(66) of the Act in the context of the instant matter where a special resolution is being proposed at a general meeting which requires at least a twenty-one (21) days notice to all the members. It is also pertinent to observe that in the instant proceedings, the pith and marrow is dealing with the transmission of incomplete statement of material facts to the members along with non-filing of the EOGM notice with the Commission; thereby rendering the discussion on minimum notice period as 'not directly relevant'.
- v. Sub-sections (1) and (2) of Section 238 of the Act, prescribes that the Commission may, by general or special order, require the companies generally, or any class of companies or any particular company, to prepare and send to the members, the Commission, the registrar, the securities exchange and any other person such periodical statements of accounts, information or other reports, in such form and manner within such time, as may be specified in the order. Moreover, any contravention or default in complying with requirement of this section shall be an offence liable to a penalty of level 3 on the standard scale. The Authorized Representative submitted that Section 238 requires a "general or special order" from the Commission for mandating additional disclosures and that the SRO, being a notification, cannot be treated as an order per se. In this regard, it is pertinent to observe that Section 2(1)(44) of the Act defines "notification" as a publication in the official Gazette, and Section 510 authorizes the Commission to issue such notifications to implement the purposes of the Act. The SRO, titled as a "notification," clearly serves the substantive purpose of a general order under Section 238 by directing [specifically] the listed companies to include specific disclosures for special business under Section 134(3). The form (notification) does not negate its substance (*an enforceable directive*), especially when the SRO imposes a compliance obligation on companies and is published through the prescribed official mechanism. Accordingly, the SRO remains a valid instrument under both Sections 238 and 510 of the Act, and its contents are binding upon the Company. The contention that the SRO lacks legal force because of its form is not sustainable.
- vi. Lastly, with regard to the plea for equal treatment under Article 25 of the Constitution and Section 20(6)(c) of the SECP Act, 1997, it is noted that each case is adjudicated on its own

Handwritten signature and date:
1-19-05-2025

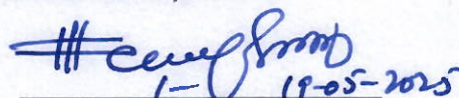
merits. The principle of non-discrimination requires consistency in the application of law, not identical outcomes irrespective of factual or contextual differences. Precedents, if any, can be considered where materially similar circumstances and facts of the case are established. However, mechanical application of precedent without due objectivity and apt relativity may not be suitable.

10. In view of the above stated facts, I am of the well-considered view that Respondents have contravened the provisions of Clause (ii) and (iii) of the Circular and Clause A-2 and C-1 of the SRO read with Section 510 of the Act. I, therefore, in light of powers vested under Section 510(2) of the Act read with SRO 1545(I)/2019 dated December 06, 2019, hereby, impose an aggregate penalty of **Rs. 100,000/- (Rupees One Hundred Thousand Only)** on the Respondents for the contravention of Clause A-2 of the SRO i.e. the disclosure of material facts under Section 134 of the Act, mentioned hereunder in the following manner:

S.No.	Name of Respondent(s)	Amount of the Penalty (Rs.)
1.	Mrs. Ghazala Shahid, Chairperson/ Non-Executive Director	10,000
2.	Mr. Shahid Mazhar, Director	10,000
3.	Mr. Ahmed Bin Shahid, Director	10,000
4.	Mr. Muhammad Afnan Shahid, Director	10,000
5.	Mr. Muhammad Akhtar, Director	10,000
6.	Mr. Nadeem Bhatti, Director	10,000
7.	Mr. Hamid Bashir, Director	10,000
8.	Shadman Cotton Mills Limited	30,000
	Total	100,000

11. Further, with regard to the contravention of Clause (ii) and (iii) of the Circular and Clause C-1 of the SRO in the matter of non-filing of notice of EOGM with the Commission and non-transmission of published copies of notice of EOGM to the Commission, the Respondents are strictly **WARNED** to remain vigilant in future regarding the compliance of the statutory obligations of the Act along with the relevant Circulars, Notifications and SROs etc.

12. The Respondents are, 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 485 of the Act will be initiated for recovery of the fines as arrears of land revenue pursuant to provision of Section 42B of the Securities and Exchange Commission of Pakistan Act, 1997.


1-19-05-2025

(Sohail Qadri)

Director/ Head of Department
Adjudication Department-I

Announced:

Dated: May 19, 2025

Islamabad.

Order in the matter of Board of Directors of M/s. Shadman Cotton Mills Limited
Dated 19th of May, 2025

