



Securities and Exchange Commission of Pakistan  
Securities Market Division

Through Courier

Before the Commissioner (SMD)

In the matter of Show Cause Notice issued to JS Global Capital Limited

**Date of Hearing**

August 2, 2019

**Present at the Hearing**

Representing JS Global Capital Limited i. Kamran Nasir, Chief Executive

**ORDER**

This Order shall dispose of the proceedings initiated through the Show Cause Notice bearing No. 1(170) SMD/ADJ/KHI/2019 dated July 17, 2019 (“SCN”) issued to JS Global Capital Limited (“Respondent”) by the Securities and Exchange Commission of Pakistan (“Commission”) 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 (“PSX”) and licensed as a securities broker under the Securities Act, 2015.
- (b) An inspection conducted by the Commission revealed that the Respondent was non-compliant with the Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 (“AML Regulations”). Keeping in view that the AML Regulations were new at the time of inspection, Commission ordered to conduct a follow up review (“Review”) to assess the Respondent’s compliance with the AML Regulations.
- (c) The Review, *inter alia*, revealed the following:
  - i. The Anti Money Laundering/Know Your Customer (AML/KYC) policy was not updated so as to meet the requirements of the AML Regulations in





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contravention of Regulation 4(a) of the AML Regulations which requires that a regulated person shall develop and implement policies, procedures and controls, which are approved by its board of directors, to enable the regulated person to effectively manage and mitigate the risks that are identified in the risk assessment of ML/TF or notified to it by the Commission. The policy is found deficient in the following areas:

- a) New products, practices & technologies
  - b) Beneficial ownership of legal arrangements and legal persons
  - c) Political Exposed Persons (“PEP”)
  - d) Reliance on third party
  - e) Correspondent relationship
  - f) Cash transaction reporting
  - g) Enhanced Due Diligence (“EDD”)
- ii. The Respondent had failed to perform Customer Due Diligence (“CDD”) of eight (8) clients i.e. information such as level of income, beneficial ownership, attested copy of service card, registration documents, certified copy of instrument of trust and authority letter etc. were not obtained at the time of opening of the account in violation of Regulation 6 which requires that a regulated person shall apply Customer Due Diligence measures when establishing business relationship with a customer.
- iii. The Respondent had failed to perform EDD of eleven (11) of its clients that were categorized as high risk in violation of Regulation 9(3) which requires that Regulated person shall perform appropriate EDD measures with customers that are identified as high risk by the regulated person.
- iv. Regulated person is required to take reasonable steps to immediately obtain renewed CNICs, whenever, expired. However, it has been observed that CNICs of fifty one (51) of its clients were expired.

The Respondent did not have a mechanism for ongoing monitoring of its clients in contravention of Regulation 13 which requires that all business relations with customers shall be monitored on an ongoing basis to ensure that the transactions are consistent with the regulated person’ knowledge of the customer.

3. It appeared from the preceding that the Respondent *prima facie* acted in contravention of the AML Regulations and Section 150 of the Securities Act, 2015. Accordingly, the





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Commission took cognizance of the aforementioned facts and served the SCN requiring the Respondent to explain its stance.

4. The Respondent was accorded an opportunity of personal hearing on August 2, 2019. Mr. Kamran Nasir, Chief Executive Officer (the “**Representative**”) appeared for and on behalf of the Respondent and made submissions verbally and through written reply. The extracts are reproduced hereunder:

### “Policy

*The Policy of the Company has clearly specified under "KYC Process and Risk Assessment" section of The Statement of Investment and Operational Policies (SIOP) that the company will conduct its KYC and risk assessments as per the Securities & Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 (AML and CFT Regulations) and related Guidelines. It is not the spirit of the law that the entire AML/CFT Regulations are printed in a securities broker's Policy, otherwise it would have been easy for the securities broker to just adopt the regulations as their policies by changing the title of the regulations. The spirit and intention of the Company's policies and procedures/practices is to always remain most compliant brokerage house of applicable rules and regulations including AML and CFT Regulations. At the time of opening of a trading account, the Company provides a Risk Disclosure document, which provide initial knowledge to the client regarding applicable regulations including AML and KYC. The Company has developed Risk Based Assessment of clients. The "Audit of AML & CFT" section of KYC policy of the Company also covers the risk assessment related to Products, Services, Practices and Technologies. Risk assessment related to legal arrangements/perscns is specifically covered under Points No. 5, 7, 17 and 18 of Section B (Customer Risk Factor) of aforesaid Risk Based Assessment. Serial No. 5 enlists categories of legal persons, including local, foreign, trusts, NGOs, charities and co-operative societies. Serial No.7 specifically relates to further screening of the customer, its beneficial ownership, persons acting on behalf of others or connected parties, obtaining information from reliable sources such as Google, the sanctioned list and third party screening database with a space for notation of any adverse news or information obtained from the above sources. Serial No.17 specifically relates to shell companies, whereas serial No.18 relates to entities having unusual or complex shareholding structures such as layer of ownership structure and different jurisdiction. All this comprehensively covers the requirement of clause No. 7 of AML & CFT Regulations and there is no shortcoming.*

*The SOP of Risk & Compliance department of the company already submitted to SECP vide our letter dated March 6, 2019 on AML & CFT review, defines the requirement of third party usage for KYC process, the extract of which is given below for your reference.*

*"The Physical Verification of clients shall/ be done by the representatives of JSGCL in case where account is being opened in the branch/office of JSGCL. In case of online/non-face-to-face customer, the company shall avail services of third party offering physical verification of clients."*

*The Company has taken all reasonable steps as specified under AML Regulation 17 by getting information of respondent institution related to their financials, incorporation, evidence of applicable regulations, geographic location, list of directors / shareholders, organizational structure and AML Policies. As per the concept of prudence, the policy shall never be construed as exhaustive, should be complete in its entirety and therefore in the event of occurrence of inordinate or suspicious incident, the Company's managers and officers are supposed to apply further measures.*





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Please note that the Company is not deposit taking entity and is only a securities broker. Therefore, it discourages deposit of cash from clients, which has also been clearly specified in the Company's SIOP. The deposit of cash is only accepted as margins as permissible under PSX Regulations and any exception is accordingly reported to PSX. The officials of FMU had acknowledged that CTR shall not be required in case of applicable cash deposit regime in accordance with PSX Regulations. It has been clearly specified that the Company shall not accept cash or third party cheque and any exception shall be dealt in accordance with relevant Regulations, the extract of which is given below.

It may be noted that the Policy of Company under "KYC Process and Risk Assessment" section of SIOP, clearly specifies that the Enhanced Due Diligence (EDD) shall be conducted as per the Regulations of AML & CFT and related Guidelines issued by the regulator from time to time.

### Customer Due Diligence

Client 1: Company taken all required documents to identify and verify the client and beneficial owner, conducted KYC of beneficial owner, taken information of the client/beneficial owner from independent sources such as Google, profile of the beneficial owner on the website of the company, monitored transactions and deposits in the said trading account.

Client 2: The Company determined the level of income of the client, which was approved by the Risk & Compliance, Sales department and Chief Operating Officer.

Client 3: Trading account was opened in 2016 as an individual instead of company or sole proprietor account and the Company has completed all AML & KYC requirements. The opening of trading account on the basis of already submitted documents is in compliance with regulatory requirements prevailing at that point of time and could not be treated as noncompliance. However, the Company after the promulgation of AML & CFT regulations 2018, has written letter to the client in November 2018 for completion of AML & KYC requirements.

Client 4: Trading account of opened in 2006 in accordance with regulations applicable at that point of time, whereas the first Guidelines of PSX on KYC and CDD were notified on March 16, 2012. The Company had taken list of authorized persons, however the client had refused to share their passport copies. In this respect, the Company had written emails to the client in 2017 and 2019 for providing required information, however, the client replied that as per their policy, they do not share passport copies of their authorized persons.

Client 5: Trading account was opened on June 21, 2012. Therefore, the requirement of Annexure I of AML & C.F.T Regulations, 2018 related to trading account opening does not apply on this client. The Company after the promulgation of AML & CFT regulations 2018, has written letter to the client in November 2018 for completion of AML & KYC requirements.

Client 6: Verified Trust Deed of Feroze & Shernaz Bhandara Charitable Trust was taken, which is stamped/ verified by Sub-Registrar II, Saddar Town, Karachi, the Notary Public and the trust itself. It may be noted that Annexure 40 of AML & CFT Regulations requires the brokerage house to get the certified copy of trust deed, however it does not specify that from which authority it needs to be certified. In this respect, we understand that the trust deed could be certified either from Registering authority, Trust itself or the oath commissioner/Notary Public.

Client 7 & 8: Trust Deed of the Wakf was taken, which is duly registered with concern authority and verified by the Wakf and Notary public. It may be noted that Regulations does not specify that from which authority it needs to be -certified.

Client 9: The said account was processed in accordance with AML & CDD Guidelines issued by PSX which was applicable at the time of opening of trading account. The CNICs of directors and authorized persons have been validated through verisys of NADRA.

### Enhanced Due Diligence

#### Client A

Please note that the account of Mr. \*\* was opened in January 2018 in accordance with prevailing KYC Guidelines of PSX and the client at the time of initial KYC disclosed the annual income of PKR 13 million, whereas the trading details were much higher. Therefore, the Company further





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investigated to ensure the source of income and the funds. In this respect, it was found in the FBR Tax Directory for the year ended June 2015 and 2017 that the client paid tax of around PKR.85.53 million and PKR 409 million respectively and the company \*\* where the client is director paid tax of around PKR.130.91 million and PKR 320 million respectively, which proves financial strength of the client, the copy of the same is attached as Annexure O. It may be appreciated that client's investment need not match with his income of a particular year. If a client is doing business for a number of years in the past, he is expected to accumulate the funds and therefore his investments would be much more than income of one year. As mentioned above, tax paid individually by the client for the year ended June, 2017 was PKR 409 Million which signifies the client's earning as an individual tax payer is quite substantial!. Likewise, payment of PKR 320 million by the client company in one year signifies the financial strength and growth of that company. Such clients are considered as prestigious clients in any financial circle.

It may further be noted that the client is also running another business on the name of \*\* which deals in chemical, the same was also verified by the Company through NTN verification, Lahore Chamber of Commerce and the information available on the internet, copies of which are attached as Annexure P.

It may further be noted that the profile of the client available on the website of \*\* was also provided for the information of SECP, which shows that the client is Managing Director of the company and proves that the information gathered by the Company about the client is correct. On the basis of aforesaid information, the Company determined the level of income of the client, which was approved by the Risk & Compliance, Sales department and Chief Operating Officer.

### Client B

Please note that the client was retired from \*\* Company; the proof of retirement from service (letter from the company) was provided to SECP, however the same is resubmitted as Annexure R for ready reference, Furthermore, the client on the recorded line during the KYC process has informed the Company that he had placed his retirement benefits in Stock Market and presently not getting any income from it.

It may further be noted that the Company had enquired from the client regarding his business shown in the online NTN verification during the KYC process at the time of opening of trading account. In this respect, the client vide his email dated September 10, 2018 replied that he is no more associated with the business mentioned in NTN and presently not running any sort of business. Copy of the email was also shared with SECP along with KYC Form, but the same might have been missed out by SECP. Therefore, the same is being resubmitted as Annexure S for your reference. It may further be noted that the company has monitored trading of the client, which was found within financial strength declared by the client during the KYC process. The trading history of the client from opening of trading account i.e. from September 12, 2018 to June 30, 2019, shows that the client traded in very low volume and value and squared his positions within one or two days, which proves that the trading pattern of the client was within financial strength of the client, therefore no further measures were required.

### Client C

The audited accounts of 2012-2013 was taken at the time of opening of trading account instead of Accounts of 2017 or 2016 account because the client is in litigation with FBR and its accounts were not audited, the copy of email of the client dated March 28, 2017 through which accounts were provided, is attached as Annexure U. The confirmation of litigation from the client vide its email dated March 25, 2019 was also submitted to SECP for clarity.

Furthermore, the trading/deposits of the client (level & source of income) were reviewed by the Company on the basis of audited financials of the client, which shows that the client has net profit of PKR 25 million and short term investment of PKR 130 million. The Short Term investment comprises of Term Deposits with bank and investments in mutual funds, which is considered cash equivalent. Furthermore, source of funds was also ensured through the banking instrument cheque drawn on the client's own bank account and deposited by the client in the Company's bank





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account. According to our legal counsel, information as to source of funds from banks would be the most authoritative source. Source of investment and income having been determined at the time of opening of the account and risk profiling and source of funds provided to the Company having been verified by the banks on whom cheques are drawn will be sufficient.

On the basis of aforesaid information, the Company has also determined the level of income of the client.

### Client D

Trading account of the client was opened in May 2018 in accordance with prevailing AML & CDD guidelines of PSX. At the time of initial KYC, the client disclosed the annual income of PKR 16 million, whereas the trading details were higher. Therefore, the Company further investigated to ensure the source of income and funds as required under AML & CFT Regulations. The Company updated the information that her total income was around PKR 30 million which comes from her business and independent consultancy services, this was confirmed by the client vide letter dated November 5, 2018.

### Client E

The source of funds were established through the audited financials (June 30, 2018) of the client, wherein the client has short term investment of PKR 143 million, which justifies the deposits of PKR 5 million highlighted by the Commission. It was further identified that the client as per the FBR Tax Directory of 2017, has deposited tax of around PKR 1.65 million, which further supports the financial capability of the client.

### Client F

As per the information received from the client during KYC, the client is a stock investor and earns around PKR 6 million per year. As a proof of occupation and complete the requirements of KYC, the client transferred 1.4 million shares of Avanceon Limited from his CDC Investors Account on 12/01/2017, value of which was around PKR 62 million at that time. Copy of CDC report for movement of shares from investor account to sub-account was provided to the Commission as proof of income vide our email dated April 1, 2019, however, the same resubmitted as Annexure B1 for your reference. Furthermore, the client received bonus shares of AVN on May 5, 2017. The original shares along with bonus were sold for PKR 80 million during the year 2017.

### Client G

As per Annual return of the client for the tax year 2018 filed with FBR, the client is managing funds of PKR 228.58 million that comprises of Cash & Cash Equivalent of PKR 162 million and Long Term Investment of around PKR 56 million, which justifies the deposited cheques of PKR 62 million. It may further be noted that the custodian of the client is MCB Financial Services Limited and the portfolio is managed by JS Investments Limited, who settled transactions of the client on Delivery versus Payment, wherein the delivery of shares is taken and payment is given in case of buy side of transaction and payment is taken against delivery of shares for sell side of transaction. Cheques are issued and received from the client on daily basis. It is important to note here that SECP has considered only deposited cheques of the client during the period mentioned in letter of finding, whereas the client had also withdrawn around PKR 50.190 million during the same period, which makes the net payment of around PKR 6 million and is very small amount compared to the fund size disclosed by the client in its Annual Return filed with FBR. It may further be noted that Mr. \*\* and Mrs. \*\* had shareholding (2,264,771 shares) in \*\*, which were sold through JS Global Capital to the \*\* for PKR 2.83 billion in 2014. Out of which PKR 312 million were transferred to the trust by Mr. \*\*. On the basis of aforesaid information, the Company has also determined the level of income of the client

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### Client H





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the Company accepted financials of 2011 at the time of opening of trading account in 2016. However, the Company has taken other means such as FBR directory of 2015, 2016 and 2017 to ascertain the income / trading limit of the client, wherein the client had paid tax for the tax year of 2015 and 2017 of around PKR 114 million and PKR 403 million respectively, whereas a subsidiary of the company \*\* paid tax during the tax year 2015 and 2017 of PKR 14 million and 66 million respectively. Furthermore, as per the Entity Rating report issued by PACRA, the client has long term rating of A+ and Short Term Rating of A1. The report also shows that the client has total assets of 21,055 million & 24,337 million, turnover of 7,823 million & 16,137 million and Net Income of 526 million & 1,654 million in 2017 and 2018 respectively, which proves the financial strength of the company. As far as beneficial ownership is concern, the aforesaid reports of PACRA states that the Liberty Mills Limited is owned (100%) by Mukaty family. Copies of Tax Directory and PACRA report are attached as Annexure HI for your reference. On the basis of aforesaid information, the Company has also determined the level of income of the client.

### Client I

The quantum of deposited funds/trading was reviewed and source of investment was established through the financials of the company as required under EDD measures. In this respect, Audited Financial statements of 2017 & 2018 were considered during the review of highlighted transactions. As per the audited financials, the WAKF had investments (at cost) of PKR 837 million in listed securities whereas the market value of shares stood at PKR 3.5 billion as on June 30, 2017. As per the Audited Financial Statements of June 2018, WAKF had investments (at cost) of PKR 890 million in listed securities whereas the market value of shares stood at PKR 3.0 billion, whereas transactions/deposits of PKR 106 million highlighted by the Commission in its letter of finding were even lesser than the dividend income received by the WAKF, which was around PKR 154 million and PKR 197 million in 2017 and 2018 respectively. On the basis of aforesaid information, the Company has also determined the level of income of the client.

### Client J

The deposited funds and trading activities were reviewed and source of investment was established on the basis of financials of the client. As per financials of the company for year ended June 2018, the client had short term investment of PKR 481 million, whereas the Commission in its Letter of Finding has shown deposits of PKR 38.88 million as unusual transaction, which is very small compared to client's short term investment. Further, SECP has referred that the Trust has only net surplus of PKR 2.2 million as on June 2018 and the Trust has deposited around PKR 35 million. In this respect, please review the profit & loss statement, wherein the Trust has transferred PKR 47.5 million to one of its funds (Restricted Fund), the same amount is shown in Balance Sheet of the trust under the heading Funds. On the basis of aforesaid information, the Company has also determined the level of income of the client.

### Client K

The client had not submitted financials and informed that they fall under the Fixed Tax Regime and are not required to get their financials audited. Therefore, Annual Tax return filed with FBR was taken, to determine the proof/source of income, copy of which was also submitted to the Commission, according to which the client has revenue of PKR 68 million, which justifies the deposited amount of PKR 3 million highlighted by the Commission in its letter of finding.

### Expired CNICs

The Company has automated CNICs expiry alert generation system, snap shot of which was also shared with SECP vide the Company's email dated March 27, 2019. The said system generates alerts for clients whose CNICs are expiring within next two months. In this respect, the Company has written several reminders to concerned clients to deposit their updated CNICs. It may further be noted that out of 51 highlighted clients, the Company has received renewed CNICs of nineteen (19) clients, trading accounts of two (02) clients have been closed and trading accounts of remaining thirty (30) clients are dormant/inactive. Please note that trading accounts of aforesaid





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*thirty clients shall only be activated once renewed CNICs are received along with completing other requirements as per Company policy.*

### Ongoing Monitoring

*The Company monitors the trading and deposit / withdrawal activity of clients on monthly basis and determines that the same are in accordance with the profile of clients including income, source of funds, risk category and occupation of the client.*

5. I have examined the written as well as oral submissions of the Respondent and its Representative. The Respondent contended that its policy was not deficient and provided detailed explanation as to how the highlighted areas were already covered in its existing AML policy. The response of the Respondent is found cogent.

6. The Respondent contended that it had conducted CDD of its clients. It was argued that in case of client accounts that were opened prior to promulgation of AML Regulations, the CDD was conducted as per the then prevailing framework. However, after the promulgation of AML Regulations, the Respondent actively pursued the clients for updating of information as per the requirements of AML Regulations. In this regard, documentary evidence of follow up was also provided which has been found satisfactory. However, in case of a foreign client, the Respondent contended that it had requested to provide list of authorized signatories and copies of their passports. The client refused to provide copies of passports. Review of the documents submitted by the Respondent to support its claim reflect that efforts to obtain the list of signatories was made in 2017 and again in 2019 after the Review. In the absence of material information such as passport which establish the identity of the authorized signatories, the Respondent should not have allowed its client to operate the account. Further, identity documents of directors and authorized persons were not verified through NADRA Verisys. In response, the Respondent argued that these accounts were opened prior to AML Regulations. Given that considerable time had lapsed since the promulgation of the AML Regulations, the argument of the Respondent does not hold merit.

7. The Respondent contended that it had adequately conducted EDD of its clients. For this purpose it had established the source of funds of the highlighted client accounts through obtaining tax returns, retirement certificate, financial statements etc., which is found satisfactory. However, in case of one client, the Respondent had not established source of investment of Rs. 24.5 million. The Respondent contended that as per information received from the client, it earned Rs. 6 million a year through stock trading. However, the Respondent could not provide any evidence to substantiate the source of income such as a tax return etc.

8. The Respondent argued that it has automated CNICs expiry alert generation system that generates alerts for clients whose CNICs are expiring within two months. In this respect, the Respondent has written several reminders to concerned clients to provide their updated CNICs and received renewed CNICs of nineteen (19) clients. It was informed that trading accounts of two (02) clients have been closed while trading accounts of thirty (30) clients are



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dormant/inactive. The Respondent confirmed that thirty clients whose renewed CNIC copies have not been received shall only be activated once renewed CNICs are received. Further, the Respondent argued that it has an effective ongoing monitoring system in place. Given that no specific instance has been highlighted where the Respondent failed to monitor its client on ongoing basis, the Respondent is not held accountable on these counts.

9. In view of para 6 and 7 above, contravention 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. 200,000/- (Rupees two hundred thousand)** is hereby imposed on the Respondent. The Respondent is advised to examine client accounts to ensure that the requirements contained in the AML Regulations are met in letter and spirit. A report in this regard shall be submitted to the Commission within sixty (60) days of the date of this order.

10. 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.

11. 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.



**Shauzab Ali**  
Commissioner (SMD)

**Announced on** 3-10-2019  
Islamabad