



121

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

Before

Mahboob Ahmad, Additional Director/Head of Wing
(Licensed Entities-Adjudication Department-I)

In the matter of

WE FINANCIAL SERVICES LIMITED

Show Cause Notice No. & Issue Date:	2(180)SMD/Adj-1/2019 dated June 25, 2024
Date(s) of Hearings:	July, 25 2024
Present at the Hearing	Mr. Hamayun Javed (Chief Executive)

ORDER

UNDER REGULATION 31 OF THE SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN (ANTI MONEY LAUNDERING AND COUNTERING FINANCING OF TERRORISM) REGULATIONS, 2020 READ WITH SECTION 6(A)(2)(H) OF THE ANTI-MONEY LAUNDERING ACT, 2010 AND RULE 4(1)(A) AND 6(1) OF THE AML/ CFT SANCTION RULES, 2020

This Order shall dispose of the proceedings initiated through the Show Cause Notice dated June 25, 2024 (**the SCN**) by the Securities and Exchange Commission of Pakistan (**the Commission**) against WE Financial Services Limited (**the Respondent and/or the Company**) on account of alleged contravention of Regulation 9 and Note (i) of Annexure I, 19 and 21(2)(c) of AML/CFT Regulations under Regulation 31 of Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2020 (**the AML/CFT Regulations**) read with Section 6(A)(2)(h) of the Anti-Money Laundering Act, 2010 (**the AML Act**) and Rule 4(1)(a) and 6(1) of the AML/ CFT Sanctions Rules, 2020 (**the AML/CFT Rules**).

2. The Respondent is a Trading Right Entitlement Certificate (TREC) holder of Pakistan Stock Exchange (PSX).

3. During the inspection carried out by Joint Inspection Team (JIT) of the compliance status of the Respondent with the requirements of AML/CFT Regulations for the period **June 01, 2023 to August 31, 2023** (**the Inspection Period**), whereas, the inspection report dated December 19, 2023 highlighted that:

- The Respondent failed to obtain information on the source of funds or wealth of a "High Risk" client (CDC Sub A/c # 4651) therefore, has not performed Enhanced Due Diligence (EDD), which contravenes Regulation 21(2)(c) of the AML/CFT Regulations.
- The Respondent failed to verify and obtain updated identity of a client (CDC Sub A/c # 3588) using reliable documents as part of its KYC. Therefore, the Respondent has contravened the Regulation 9, 19(1)(c) and Note (i) of Annexure- 1 of AML/CFT Regulations.

4. The aforementioned non-compliances attract the applicability of Regulation 31 of the AML/CFT Regulations read with Section 6(A)(2)(h) of the AML Act and Rule 4(1)(a) and 6(1) of the AML/CFT Rules. The relevant provisions are reproduced as under:



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I Adjudication Division

Regulation 9 of the AML/CFT Regulations:

"The regulated person shall:

- (a) identify the customer; and*
- (b) verify the identity of that customer using reliable and independent documents, data and information as set out in Annex 1."*

Note (i) of Annexure- 1 of AML/CFT Regulations:

"(i) For due diligence purposes, at the minimum following information shall also be obtained and recorded on KYC (Know Your Customer)/CDD form or account opening form:

- (a) Full name as per identity document;*
- (b) Father/Spouse Name as per identity document;*
- (c) Mother Maiden Name;*
- (d) Identity document number along with date of issuance and expiry;*
- (e) Existing residential address (if different from CNIC);*
- (f) Contact telephone number(s) and e-mail (as applicable);*
- (g) Nationality-Resident/Non-Resident Status*
- (h) FATCA/CRS Declaration wherever required;*
- (i) Date of birth, place of birth;*
- (j) Incorporation or registration number (as applicable);*
- (k) Date of incorporation or registration of Legal Person/ Arrangement;*
- (l) Registered or business address (as necessary);*
- (m) Nature of business, geographies involved and expected type of counter-parties (as applicable);*
- (n) Type of account/financial transaction/financial service;*
- (o) Profession / Source of Earnings/ Income: Salary, Business, investment income;*
- (p) Purpose and intended nature of business relationship;*
- (q) Expected monthly turnover (amount and No. of transactions); and*
- (r) Normal or expected modes of transactions/ Delivery Channels*

Regulation 19(1)(c) of the AML/CFT Regulations:

"Ongoing Monitoring –

- (1) The regulated person shall conduct ongoing due diligence on the business relationship, including:*
 - ...*
 - (c) undertaking reviews of existing records and ensuring that documents, data or information collected for the CDD purposes is kept up-to-date and relevant, particularly for higher risk categories of customers."*

Regulation 21 of the AML/CFT Regulations:

"Enhanced Due Diligence (EDD) –

...

- (2) EDD measures include but shall not be limited to the following measures:*
 - (a) Obtaining additional information on the customer (e.g. volume of assets, information available through public databases, internet, etc.), and updating more regularly the identification data of customer and beneficial owner;*
 - (b) Obtaining additional information on the intended nature of the business relationship;*
 - (c) Obtaining information on the source of funds or source of wealth of the*

Regulations 31 of the AML/CFT Regulations:

"(1) Any contravention of these regulations shall be cognizable by the Commission in accordance with section 6A of the AML Act and liable to sanction provided in the AML/CFT Sanctions Rules, 2020 and imposed by the Commission according to Clause (h) of Sub-section (2) of Section 6A of AML Act."



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I Adjudication Division

Section 6(A)(2)(h) of the AML Act:

"(h) impose sanctions, including monetary and administrative penalties to the extent and in the manners as may be prescribed, upon their respective reporting entity, including its directors and senior management and officers, who violates any requirement in section 7(1), 7(3) to 7(6) and 7A to 7H and any rules or regulations made thereunder or those who fail to comply with the TFS regulations. Any person aggrieved by the imposition of sanctions under this clause may prefer an appeal in such manner and within such period to such authority as may be prescribed;"

Rules 4(1)(a) of the AML/CFT Rules:

"(a) Impose a monetary penalty in accordance with these Rules;"

Rule 6(1) of the AML/CFT Rules:

"(1) The AML/CFT Regulatory Authority shall apply monetary penalties upto Rs. 100 Million per violation, in accordance with the risk-based penalty scale of the respective AML/CFT Regulatory Authority."

5. While taking cognizance in the aforesaid matter, the SCN was issued to the Respondent, calling upon it to show cause in writing as to why penalty as provided under Regulation 31 of the AML/CFT Regulations read with Rules 4(1)(a) and 6(1) of the AML Rules and Section 6(A)(2)(h) of the AML Act, may not be imposed on it for contravening the aforementioned provisions of the law. In response to the SCN the Respondent vide its letter dated July 05, 2024 has submitted as under:

"In this regard we are recalling for your convenience that we received an Inspection Notice (No. Inspection/- T330) dd. September 18, 2023 & subsequently a Review Report dd. October 20, 2023 to which we replied vide email dd. 25.10.2023 (email att.) with attachments of required documents.

Now with reference to your captioned SCN, please note our clarifications below:

a. CDC Sub A/c # 4651: Customer Source of Funds not provided & Failure to perform EDD.

Our Reply: Source of funds and EDD in the shape of internal office memo is attached in the zip documents emailed to Mr.... Supervisor: Inspection Team Member of the SECP on 25.10.2023 (pls see copy of our att. email).

b. CDC Sub A/C # 3588: Customer identity verification documents as part of KYC not provide.

Our Reply: With due respect, erroneously all related identity documents were not uploaded in the ZIP file emailed on 25.10.23 to Mr. ... – Supervisor/ Inspection Team Member of the SECP. It was unintentional error for which we offer due apologies.

Please note that all related identity documents are maintained in our customer file, copies of which we are providing to you now.

We hope that our esteemed regulator (SECP) is satisfied with our reply to the SCN and assure you that we remain diligent in complying with our regulator's directives at all times to the best of our professional abilities."

6. In order to provide the Respondent an opportunity of personal representation, hearing in the matter was fixed for July 25, 2024 through zoom video link which was attended by Mr. Humayun Javed and Mr. Mohammad Arshad at its Authorized Representatives (**the Representatives**). During the course of hearing, the Representatives were advised to explain the reasons for the alleged non-compliances, as narrated in the SCN. The Representative reiterated the same stance taken in the response to the SCN. It was submitted that some documents were missed unintentionally while uploading data on zip file shared with inspection team. With respect to EDD of abovementioned client, it was stated that EDD was not satisfied for the client and they are not allowed to become an active account until sufficient documents are provided by the client. Further, for the KYC requirements, the client's account is considered inactive as no transactions have taken place since



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I Adjudication Division

2010. After the hearing, additional documents for client's KYC/CDD and correspondence with clients were shared with the Commission.

7. I have examined the facts of the case in light of the applicable provisions of the law and have given due consideration to the written as well as verbal submissions and arguments of the Respondent and its Representative. At this juncture, it is essential to address the following:

(i) **CDC A/c No. 4651**

The Respondent submitted the client's account opening documents along with its KYC/CDD form however, the contravention of Regulation 21(2)(c) of the AML/CFT Regulations mentioned in the show cause is for the requirements for EDD for high risk clients. The Respondent provided a document namely Office Memorandum dated October 14, 2015 wherein information/benefits upon ending employment was mentioned however, no benefits have been specified monetarily. The Respondent has still not provided source of income/proof of employment of the client. Therefore, the instance remains unresolved hence contravened the Regulation 21(2)(c) of the AML/CFT Regulations.

(ii) **CDC A/c No. 3588**

The Respondent had admitted to unintentionally not providing the KYC checklist form as it was missed from the zip file emailed to the inspection team on October 25, 2023. The form was later provided to the Commission after the hearing, showing that the date on the KYC form is April 11, 2019 which indicates that the KYC checklist procedure was initiated at the time of account opening. It is therefore concluded that there was no contravention of Regulation 9, 19(1)(c) and Note (i) of Annexure- 1 of AML/CFT Regulations.

8. In view of the foregoing and the admission made by the Representative, non-compliances/contravention of the Regulation 21(2)(c) of AML/CFT Regulations, which attract the applicability of Regulation 31 of the AML/CFT Regulations read with Rules 4(1)(a) and 6(1) of the AML Rules and Section 6A(2)(h) of the AML Act. Therefore, I, in terms of powers conferred upon me under 6(A)(2)(h) of the AML Act, impose a penalty of **Rs. 30,000/- (Rupees Thirty Thousand only)** on the Respondent on account of established default.

9. The Respondent is also advised to ensure meticulous compliance with all applicable laws of Anti Money Laundering and Countering Financing of Terrorism in true letter and spirit, henceforth.

10. The Respondent is hereby directed to deposit the aforesaid fine in the designated bank account maintained in the name of Securities and Exchange Commission of Pakistan with MCB Bank Limited or United Bank Limited within thirty (30) days from the date of this Order and furnish receipted voucher issued in the name of the Commission for information and record.

11. This Order is issued without prejudice to any other action that the Commission may initiate against the Company and/or its CEO in accordance with the law on matters subsequently investigated or otherwise brought to the knowledge of the Commission.

(Mahboob Ahmad)

Additional Director / Head of Wing
Licensed Entities - Adjudication Department-I

Announced:

October 10, 2024
Islamabad