



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

ENRICHERS SECURITIES (PRIVATE) LIMITED

Show Cause Notice No. & Issue Date:	2(430)SMD/Adj-1/2023 dated June 24, 2024
Date(s) of Hearings:	August, 06 2024
Present at the Hearing:	Muhammad Hassan Mehmood - CEO (Authorized Representative)

ORDER

UNDER REGULATION 31 OF THE SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN (ANTI MONEY LAUNDERING, COMBATING THE FINANCING OF TERRORISM AND COUNTERING PROLIFERATION FINANCING) 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 24, 2024 (**the SCN**) by the Securities and Exchange Commission of Pakistan (**the Commission**) against Enrichers Private Limited (**the Respondent and/or the Company**) on accounts of alleged contravention of Regulation 5(a), 19(1)(a), 25 and SRO 920(I)/2020 dated September 28, 2020 (**the SRO**) of Securities and Exchange Commission of Pakistan (Anti Money Laundering, Combating the Financing of Terrorism and Countering Proliferation Financing) Regulations, 2020 (**the AML/CFT/CPF 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 Mercantile Exchange Limited (**PMEX**). The principal activities of the Company are to carry on the business of brokers, traders, dealers and representatives in all sort of approved commodities of PMEX. The Company is a regulated person as per definition stated at Clause (r) of Regulation 3(1) of the AML/CFT/CPF Regulations.

3. During the review carried out by PMEX for examining compliance status of the Respondent with the requirements of the SRO and AML/CFT/CPF Regulations for the period **July 01, 2022 to June 30, 2023 (the Review Period)** whereas, the inspection report dated February 15, 2024 highlighted that:

- The Respondent failed to perform ongoing due diligence of a client (Trading ID: 202745612). The client opened his account on October 2022 and deposited a total amount of Rs. 5.9 million which does not match with his gross monthly salary of Rs. 89,000. The said investment does not commensurate with his source of fund which tantamount to contravention of Regulation 19(1)(a) of the AML/CFT/CPF Regulations.
- The Respondent stated they have adopted AML guidelines of April 2020 but could not provide policies and procedures approved by its board, therefore does not have updated board approved policies, which contravenes Regulation 5(a) of AML/CFT/CPF Regulations.



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- c) The Respondent had not submitted the compliance reports of 84 instances (**Annexure A**) within 48 hours as prescribed in Clause D of the SRO on SECP e-Services Portal read with Regulation 25 of the AML/CFT/CPF Regulations.
4. The aforementioned non-compliances attract the applicability of Regulation 31 of the AML/CFT/CPF 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:

Regulation 5(a) of the AML/CFT/CPF Regulations:

"Risk Mitigation and Applying Risk Based Approach –

The regulated person shall:

(a) have policies, controls and procedures, which are approved by its board of directors, to enable them to manage and mitigate the risks that have been identified in its own risk assessment and any other risk assessment publicly available or provided by the Commission."

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

"Ongoing Monitoring –

(1) The regulated person shall conduct ongoing due diligence on the business relationship, including:

(a) scrutinizing transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the regulated person's knowledge of the customer, their business and risk profile, including where necessary, the source of funds."

SRO 920(I)/2020 dated September 28, 2020:

"D. Compliance report on Statutory Regulatory Orders issued by the Ministry of Foreign Affairs under United Nations (Security Council) Act, 1948 or intimation from National Counter Terrorism Authority /Law Enforcement Agencies/Home Departments of Provinces/Ministry of Interior regarding updates in the list of proscribed person(s)/entity(ies) under the Anti-Terrorism Act, 1997, shall be submitted to the Commission within forty-eight (48) hours of receiving the same in the manner as may be instructed from time to time by the Commission.

Any person to whom this directive applies and who contravenes or fails to comply with the requirements of this directive or submits a return which is false in a material respect or where under a misstatement is made shall be liable to sanction in accordance with AML/CFT Sanctions Rules, 2020 issued under the AML Act, 2010 and imposed by the Commission according to section 6A of the AML Act."

Regulation 25 of the AML/CFT/CPF Regulations:

"(1) The regulated person shall undertake TFS obligations under the United Nations (Security Council) Act 1948 and/or Anti-Terrorism Act 1997 and any regulations made there under, including:

(a) develop mechanisms, processes and procedures for screening and monitoring customers, potential customers and beneficial owners/associates of customers to detect any matches or potential matches with the stated designated/proscribed persons in the SROs and notifications issued by MOFA, NACTA and MOI."

Regulations 31 of the AML/CFT/CPF 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."



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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/CPF 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 provided its written response, the relevant extract of which is provided as under:

- *"In response to the noncompliance alleged in the paragraph 2(a) of the notice under reply, it is succinctly stated that as a matter of regulatory compliance as well as our internal compliance policy, the ongoing due diligence for customers is carried out regularly. In this regard, as per our internal policy, wherever deposit of funds by any of our customers in excess of PKR 500,000/- is intimated by Pakistan Mercantile Exchange (PMEX) our internal compliance and operations department takes necessary steps for due diligence for that particular client. The Client referred in the paragraph under reply holding TDR 202745612 has initially deposited PKR 1,000,000 at the time of account opening and later on deposited further margin through multiple transactions where most of the transactions were under our red flag amount. Despite conducting requisite due diligence prior to account opening, we conduct ongoing due diligence when the first deposited amount in excess of our red flag limit i.e. 500,000/- and required him to provide documentary justification regarding his investment as at the time of account opening he has only shared his salary details which does not necessarily confirm his portfolio size upon which the client has satisfied the respondent by sharing his income tax return and wealth statement where he has declared his current assets to FBR as PKR 19,092,482/- which had been annexed to client's account opening documents as per procedure. A copy of the income tax return of the client is annexed herewith for your kind perusal.*
- *In response to the assertions contained in para 2(b) of the notice under reply it is humbly submitted that AML Guidelines, updated April 2020 issued by the Commission has been overall adopted as being comprehensive in nature and under the same the respondent has duly devised its policies for mitigation of risk while applying risk-based approach which had already been shared during the course of respondent's review by the Commission as well as audits by PMEX. Copies of internal control policies duly approved the board are annexed herewith for your kind perusal.*
- *In reply to the assertion contained in para 2(c) of the notice under reply, it is humbly submitted that the referred instances for non-reporting under the SRO 920/2020 had already been taken into cognizance by the honorable predecessor of this office vide show cause notice No. 1(2)/SMD/ADJ-I/PMEX/2018 whereupon penalty of the PRR 100,000/- (Rupees One Hundred Thousand only) vide*



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order dated 26-07-2022 which has been deposited accordingly by the respondent. Furthermore, your good office may also recognize that the referred reporting entries had already been posted on the portal and after that, there is not a single instance ever since where any such report update is delayed beyond the statutory period of 48 hours.

- At this very outset, it is most respectfully stated that based on the afore-mentioned response, no contravention of any of the provisions referred to in clauses 3 and 4 of this notice reply has been committed by the respondent, consequently, no regulatory action is attracted against the respondent under this notice, and therefore the instant notice is liable to be discharged accordingly...

6. In order to provide the Respondent an opportunity of personal representation, hearing in the matter was fixed for August 06, 2024 which was attended by Muhammad Hassan Mehmood – CEO, as its Authorized Representative (**the Representative**). During the course of hearing, the Representative reiterated the same stance as taken in the afore-said response to the SCN. It was also submitted that there is no internal auditor appointed and in respect of the 84 instances of SRO, the Representative claimed they were the same instances reported in a previous order dated July 26, 2022. Further, board resolution and AML policies will to be shared after the hearing.

7. After the hearing, the Respondent provided Minutes of the Board of Directors Meeting dated May 18, 2019, September 20, 2019 and March 29, 2023 and Memorandum of revised policies dated February 01, 2019 along with a copy of their AML/CFT policies namely: AML/CFT Regulatory Obligations. However, the Minutes of BoD meeting and the Memorandum of revised policies does not reflect the board resolution for the approval of its AML/CFT policy.

8. 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) **Whether the Respondent conducted ongoing due diligence of client?**

With regard to the on-going monitoring of the client, it was observed that the client account was opened in October 2022 and deposited a total amount of Rs. 5.9 million which did not match with his gross monthly salary of Rs. 89,000. In response to the SCN, the Respondent provided a copy of tax return for the Tax Year 2021 (**TY 2021**) reflecting total net assets of Rs. 19,092,482. However, no evidence was provided with respect to the source of funds of the client for the year 2023 which should justify his investment of Rs. 5.9 million in his trading account. Therefore, the Respondent has not complied with Regulation 19(1)(a) of the AML/CFT/CPF Regulations.

(ii) **Whether the Respondent made timely compliance with the requirements of the SRO?**

No, the Respondent did not make timely compliance of 84 instances (**Annexure A**) within 48 hours with respect to Regulation 25 of the AML/CFT/CPF Regulations, as outlined in Clause D of SRO 920. It was submitted by the Respondent that the Commission has already taken cognizance in this matter and consequently issued show cause notice in this matter with subsequent imposition of penalty whereupon we have not only paid the penalty but also update the entire pending reports on SECP portal.

In view of the above, it is pertinent to mention that the afore-mentioned Order dated July 27, 2022 was issued based on the late filing of SROs during the review period i.e. October 01, 2020 to January 15, 2021.



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However, in the instant matter, the Respondent has not submitted compliance reports in 84 instances pertaining the review period December, 2022 to February, 2023. Since the aforementioned Order's review period is different from the current late filing which pertains to the review period December, 2022 to February, 2023 therefore, the Respondent is in contravention of Clause D of the SRO and Regulation 25 of the AML/CFT/CPF Regulations.

(iii) **Whether the Respondent has provided Board approval for its updated AML/CFT policies?**

No, the Respondent did not provide board approval of approved AML guidelines. the Respondent provided Minutes of the Board of Directors Meeting dated May 18, 2019, September 20, 2019 and March 29, 2023 and Memorandum of revised policies dated February 01, 2019 along with a copy of their AML/CFT policies namely: AML/CFT Regulatory Obligations. However, the Minutes of BoD meeting and the Memorandum of revised policies does not reflect the board resolution for the approval of its AML/CFT policy. Therefore, the Respondent was found non-compliant with Regulation 5(a) of the AML/CFT/CPF Regulations.

9. In view of the foregoing and the admission made by the Representative, non-compliances/contraventions of the Regulation 5(a) and 19(1)(a) of the AML/CFT/CPF Regulations and clause D of the SRO read with Regulation 25 of the AML/CFT/CPF Regulations have been established, which attract the applicability of Regulation 31 of the AML/CFT/CPF 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. 300,000/- (Rupees Three Hundred Thousand only)** on the Respondent on account of established default.

10. 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.

11. 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.

12. 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 11, 2024
Islamabad

