



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

Before Hammad Javed, Additional Director/Head of Wing
(Licensed Entities-Adjudication Department-I)

In the matter of

Akhai Securities (Private) Limited

Show Cause Notice No. & Issue Date:	No.2(160)SMD/Adj-I/2019 dated July 07, 2023
Date(s) of Hearings:	August 16, 2023
Present at the Hearing Representing the Respondent	Mr. Abid Akhai Mr. Shafqat Ali, Consultant (Authorized Representative)

ORDER

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

This Order shall dispose of the proceedings initiated through the Show Cause Notice (the SCN) No.2(160)SMD/Adj-I/2019 dated July 07, 2023 by the Securities and Exchange Commission of Pakistan (the Commission) against Akhai Securities (Private) Limited (the Respondent and/or the Company) for alleged contravention of the Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2020 (the AML/CFT Regulations) under Regulation 31 of the AML/CFT Regulations read with Rule 4(1)(a) And 6(1) of the AML/CFT Sanction Rules, 2020 (the AML Rules) and Section 6A(2)(h) of the Anti-Money Laundering Act, 2010 (the AML Act).

2. It was transpired from the record available with the Commission that the review of the Company was carried out **from October 01, 2022 to December 31, 2022 (the review period)** by the Joint Inspection Team (JIT). The scope of review included examining compliance status with respect to certain provisions, stipulated under Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2020 (the AML/CFT Regulations).

3. The Inspection Report dated April 17, 2023 transpired that the Company, prima facie, was non-compliant with the AML Regulations, detailed as under:

- i. The Company has not assigned Risk Rating to its various clients, has not carried out CDD of some joint account holders and has not documented justification for assigning low risk to certain clients, has not provided NADRA Verisys for some clients/beneficial owners, did not provide information/documents about source of income/funds in some cases, failed to provide evidence of TF screening in some cases. Therefore, these amount to violation of Regulations 8, 11, 23(2) and 25(1)(a) and 9 read with Serial 2, Note (i)(o) & (q) and Note (ii) of Annex-I to the AML Regulations.



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Details of the clients are as follows:

Sr. No	CDD Sub A/C No.	Relevant Clauses of the AML/CFT Regulations
1.	549	Regulation 9
2.	11520	Regulation 23(2)
3.	11918	Regulation 8(3)
4.	12080	Regulation 8(3)
5.	11827	Regulation 8(3)
6.	10746	Regulation 9
7.	9045	Regulation 11, 25(1)(a) and 9 read with Note (i)(o) and (ii) of Annex-1
8.	7528	Regulation 11 and 9 read with Note (i)(o) and (ii) of Annex-1
9.	11561	Regulation 25(1)(a) and 9 read with Note (ii) of Annex-1

4. The relevant provision of the law is reproduced as under:

Regulation 8 of the AML/CFT Regulations:

Customer Due Diligence- (1) The regulated person shall conduct CDD in the circumstances and matters set out in section 7A(l) and 7(E) of the AML Act.

(2) For the purposes of conducting CDD as required under section 7A (2) of the AML Act every regulated person shall comply with sections 9-25 of these Regulations.

(3) The regulated person shall categorize each customer's risk depending upon the outcome of the CDD process.

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

Regulation 11 of AML/ CFT Regulations:

11. The regulated person shall also identify the beneficial owner and take reasonable measures to verify the identity of the beneficial owner by using reliable and independent document, data or sources of information as set out in Annex 1, such that the regulated person is satisfied that it knows who the beneficial owner is.

Regulation 23(2) of AML/ CFT Regulations:

23. (2) The decision to rate a customer as low risk shall be justified in writing by the regulated person.

Regulation 25(1)(a) of AML/ CFT Regulations:

25. (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:

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- (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 SR0s and notifications issued by MoFA, NACTA and Mol.

Serial 2 of the Annexure-1 to AML/CFT Regulation:

Joint Account

- (i) A photocopy of any one of the documents mentioned at Serial No. 1;
(ii) In the case of joint account, CDD measures on all of the joint account holders shall be performed as if each of them is individual customers of the RP.

Note (1) (o) and (q) of the Annex-I to 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....

(o) Profession / Source of Earnings/ Income: Salary, Business, investment income;...

(q) Expected monthly turnover (amount and No. of transactions);....

Note (ii) to Annex-I of the AML/CFT Regulations:

- (ii) The photocopies of identity documents shall be validated through NADRA verisys or Biometric Verification. The regulated person shall retain a copy of NADRA verisys or Biometric Verification (hard or digitally) as a proof of obtaining identity from customer.

5. The aforesaid violations attract 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, which are reproduced as under:

Regulation 31(1) 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."

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

"(1) On any contravention as set out in rule 3(2), any or all of the following sanctions may be imposed by the concerned AML/CFT Regulatory Authority, namely: -
(a) Impose a monetary penalty in accordance with these Rules;"

Rule 6(1) of the AML 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."

Section 6A(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),



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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;"

6. Keeping in view the aforesaid contraventions, the SCN was issued to the Respondent/Company, calling upon it to show cause in writing as to why the penalty as provided under Section 6A(2)(h) of the AML Act, may not be imposed on it for the aforementioned contraventions of the law.

7. In response to the SCN, the Company through letter dated July 23, 2023 submitted on merits as under:

We have noted that in the SCN, there were Nine (9) clients, against which, Joint Inspection Team ("JIT") concluded its inspection on February 03, 2023 alleging the following non-compliances:

- 1. Risk Ratings to the Clients were not assigned;*
- 2. Customers Due Diligence (CDD) was not carried of some joint account holders;*
- 3. Justifications for assigning Low Risk to certain clients were not documented;*
- 4. NADRA Verisys for some Clients/beneficial owners were not provided;*
- 5. Information/documents about sources of income/funds in some cases were not provided;*
and
- 6. Evidence of TF screening in some cases were not provided.*

Although, the Company has provided missing information/document in its reply to the Letter of Findings (the "LoF") issued by the Oversight Committee (the "OC") on February 03, 2023. However, we on behalf of the Company hereby re-submit our responses/explanations to the contraventions alleged in the SCN as under: -

- 1. There was system generated report provided to JIT in response to its Inspection Letter dated January 23, 2023, where 220 inactive clients were not assigned any Risk Category, which were rectified before our reply to the LOF on February 01, 2023.*
- 2. The Joint Inspection Team (the "JIT") in pursuance to the OC's Letter dated January 23, 2023 during the review, selected 10 clients of the Company and requested its management to share the SAOFs, KYC / CDD forms and other relevant details. The management provided complete files of all 10 Clients. The JIT vide their LOF reported few deficiencies in the files, which were provided in response to the LOF, The CDD of all 9 clients is attached...*
- 3. With respect to no separate written justification for assigning Low to the Clients, you must have observed, there were misunderstandings of all Securities Brokers till 2022 that the Clients should be categorized as Low, Medium or High category based on information provided on their KYC forms and no need to give separate justification in the space provided in standard KYC forms for "any Additional Comments". Therefore, the Company could not provide separate justification on the space provided in KYC form for "Any Additional Comments", which were done before submitting response to LOF dated February 03, 2023. Update KYC Forms of all 9 Clients are attached as Annexure....*





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4. *With respect to the observation relation to non-provision of NADRA Verisys of few clients and/or their Joint Holders or Beneficial Owners during the Review Period, please note that there was common issue with the majority of Securities Brokers to whom NADRA had not acceded their request of provided Verisys Devices. The Company faced same problem of not acquiring Verisys Device from NADRA till conclusion of JIT's review. However, the Company completed the NADRA Verisys of all clients including those identified by the JIT till February 01, 2023. The compliance of which were acknowledged by the OC in its LOF...*
5. *With respect to non-availability of information documents of Sources of Incomes/Funds of few Clients, the OC in its LOF identified following two (2) clients out of ten (10) selected for inspection, for which their Source of Income/Funds were missing...
In our response to the LOF, the Company provided Sources of Income/ Funds of two (2) clients , the copies of which are enclosed with this reply as Annexures Ledger of Mrs as account is attached as ... in active since 08-10-2015.*
6. *With respect to TF Screening of few Clients and/or their Joint Account Holders/Board Members, there was only a single instance observed by the JIT for non-screening of Main Applicant and Directors of Corporate Client i.e. (Private) Limited. The screening report of ... and its directors are attached...."*

8. The hearing in the matter was fixed for August 16, 2023 wherein Mr. Abid Akhai, Chief Executive Officer and Mr. Shafqat Ali (Consultant) appeared before the undersigned Authorized Representatives (**Representatives**) on behalf of the Company. During the course of hearing, the Representatives were advised to explain the reasons for the alleged non-compliances, as narrated in the SCN. The Representatives submitted that only 9 clients were highlighted by the inspection team wherein various discrepancies were observed and the Company is largely compliant with the relevant clauses of the AML Regulations. The Representatives also submitted that it has obtained the necessary documentation with regard to KYC/CDD of these clients in response to the Letter of Findings. Further, with regard to the low risk justification of low risk clients, the Representatives submitted that it was due to misunderstanding on part of the Securities Brokers that the information provided on KYC form was sufficient. Therefore, the Company did not provide any additional comments on the KYC Forms. Further, the NADRA Verisys system was not provided by NADRA. The company faced some problems in acquisition of NADRA Verisys till conclusion of the inspection.

9. 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 Representative. I am of the considered view that the Respondent was required to comply with the requirements of aforesaid provisions of AML/CFT Regulations and have observed that:

- i. The Respondent failed to categorize risk of three (3) clients and the same could not be submitted at the time of inspection. The Representatives submitted that it had provided system generated reports to the inspection team where 220 inactive clients were not assigned risk category, which were rectified prior to issuance of LOF on February 01, 2023. However, the Respondent or its Representatives failed to provide any evidence substantiating the stance. Therefore, it is established that the Respondent failed to ensure compliance of Regulation 8 of AML/CFT Regulations by not categorizing each client as an outcome of CDD process at the outset.





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- ii. The Inspection Report revealed that the Respondent had failed to provide KYC/CDD forms of two (2) clients. The Respondent in its reply to the SCN submitted KYC form of one client. However, in one instance of a corporate client, the Respondent failed to provide KYC/CDD form of the main applicant and its directors even in response to the SCN. Therefore, it is established that the Respondent failed to ensure compliance of Regulation 9 of the AML/CFT Regulations in one instance.
- iii. The Respondent and its Representatives admitted the alleged contravention of not being able to validate the identity documents of all clients through NADRA Verisys or Biometric Verification. They stated that they could not acquire these devices from NADRA till conclusion of JIT's review. Subsequently, validation from NADRA Verisys have been completed for three (3) clients as identified by JIT and evidences dated January 02, 2023, January 30, 2023 and February 03, 2023 have also been provided in response to the SCN. However, these evidences are dated after the review period and based on the admission made by the Respondent and its representatives in this connection, contravention of Regulation 9 read with Note (ii) of Annexure- 1 of AML/CFT Regulations is established.
- iv. The Respondent failed to provide source of income/ funds of two (2) clients during inspection, which was also admitted by the Representatives during the hearing. However, the Respondent in its response to the SCN claimed to have provided these evidences in response to the LOF, yet, no evidence substantiating this stance has been provided by the Respondent. Moreover, the Respondent, in response to the SCN, has provided a copy of tax return with printing date of February 05, 2023 for just one client i.e. subsequent to the period of inspection. In the other instance of a housewife, the Respondent submitted that it has provided ledger of the client who is inactive since 08-10-2015 however, the Respondent failed to provide any evidence of source of income/ funds of the client and also failed to provide identification/source of income documents of her beneficial owner. Therefore, the Respondent has contravened the provisions of Regulation 9 read with Note (i)(o) of Annexure- 1 of AML/CFT Regulations and Regulation 11 read with Annexure-1 of AML/CFT Regulations.
- v. The Respondent had failed to provide written justification in case of one (1) low risk client identified by JIT on sample basis. The Respondent and its Representatives admitted that it was due to a misunderstanding on their part as they were of the view that the information provided on KYC form was sufficient. Although, the Respondent also submitted to have provided written justification of assigning low risk to clients before submitting response to LOF, however, the Respondent or its Representatives failed to provide any evidence substantiating the stance taken herein. Therefore, the contravention of Regulation 23(2) of AML/CFT Regulations is established.
- vi. Contrary to the fact that JIT had identified failure on part of the Respondent in conducting TF screening in respect of two (2) clients, one individual and one corporate client along with its directors, the Respondent, in response to the SCN, has provided copy of screening evidence for just one corporate client and its directors. This evidence is observed to be dated January 31, 2023 i.e. subsequent to the period of inspection. In view hereof, the Respondent has contravened Regulation 25(1)(a) of AML/CFT Regulations.



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10. In view of the foregoing facts and the submissions made by the Representative, contraventions of the afore-stated provisions of AML Regulations have been established, which attract imposition of penalty under 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. Hence, in exercise of the powers conferred under upon me, I hereby impose penalty of **Rs. 170,000 /- (Rupees One Hundred and Seventy Thousand Only)** on the Company on account of the aforesaid conceded and established non-compliances of aforesaid provisions of the law.

11. The Company is hereby directed to deposit the aforementioned fine in the designated Bank Account maintained in the name of the Securities and Exchange Commission of Pakistan with MCB Bank Limited within thirty (30) days of the date of this Order and furnish receipted voucher evidencing payment of the same.

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.



(Hammad Javed)

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

Announced

September 12, 2023

Islamabad