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SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

SECP

ORDER	
Name of Company	M/s. Cashew Financial Services Limited
Show Cause Notice No. & Date:	SECP/SCD/Adj-I/CashewFin/60/2022-269 dated May 08, 2024
Respondents:	(i) Cashew Financial Services Limited; (ii) Mr. Ammar Afif, Chief Executive Officer; (iii) Mr. Shaheen Amin, Director; (iv) Mr. Raheel Qamar Ahmad, Director; (v) Mr. Moeed Qamar, Director; (vi) Ms. Atifa Arif Dar, Director; (vii) Syed Hashim Mahmood Ali, Director; and (viii) Syed Zahoor Hassan, Director.
Date(s) of Hearing(s):	(i) January 08, 2025; (ii) January 13, 2025; and (iii) January 20, 2025.
Case represented by:	(i) Mr. Ammar Afif, Chief Executive; *[In personal capacity as Respondent No (ii) and on behalf of Respondent No.(i)]* (ii) Rana Sadaqat Ali; *[as Authorized Representative of Respondent No.(iii)]* (iii) Mr. Raheel Qamar Ahmad, Director; (iv) Mr. Moeed Qamar, Director; (v) Ms. Atifa Dar, Director; *[In personal capacities as Respondents No. (iv), (v) and (vi) respectively]* (vi) Syed Hashim Mahmood Ali, Director; *[in personal capacity as Respondent No.(vii) and on behalf of Respondent No.(viii)],*
Provisions of law involved:	Section 282 J (1) and (2) of the Companies Ordinance, 1984 for contravention of rule 7(3) of the Non-Banking Finance Companies (Establishment and Regulations) Rules, 2003; regulation 4, of the Non-Banking Finance Companies and Notified Entities Regulations, 2008
Date of Order:	September 29, 2025

This Order shall dispose of the proceedings initiated by the Securities and Exchange Commission of Pakistan **(the "Commission")** through the Show Cause Notice No. SECP/SCD/Adj-I/CashewFin/60/2022-269 dated May 08, 2024 **(SCN)** against Cashew Financial Services Limited **(the "Company")**, its Directors and Chief Executive Officer **(CEO)**, hereinafter collectively referred to as the "**Respondents**", under Section 282 J (1) & (2) of the Companies Ordinance, 1984 **(the "Ordinance")** for contravention of rule 7(3) of the Non-Banking Finance Companies (Establishment and Regulations) Rules, 2003 **(the "NBFC Rules")** read with regulation 4 of the Non-Banking Finance Companies and Notified Entities Regulations, 2008 **(the "NBFC Regulations")**.

2. Rule 7(3) of the NBFC Rules read with regulation 4 of the NBFC Regulations provides that a Non-Banking Microfinance Company **(NBMFC)** shall at all times, maintain a Minimum Equity Requirement **(MER)** of Rs. 50 million. Furthermore, the term "equity" as defined under rule 2(xix) of the NBFC Rules, includes paid up ordinary share capital, preference shares which are compulsorily convertible into ordinary shares, general reserves, statutory reserves, balance in share premium account, reserve for issue of bonus shares, subordinated loans and unappropriated profits, excluding accumulated losses. Moreover, an explanation regarding subordinated loan has been given that, a loan may be treated as a subordinated loan if it meets certain conditions, which inter alia including that the rate of profit on subordinated loan, shall be decided by NBFC subject to the clearance of the Commission.

3. The brief facts of the case are that the Company was incorporated on October 06, 2020, as a public unlisted company under the Companies Act, 2017 (**the "Act"**) and licensed by the Commission on June 29, 2021 to undertake Non-Banking Microfinance business under the NBFC Rules and the NBFC Regulations.

4. A review of monthly returns filed by the Company with the Commission through the Specialized Companies Returns System ("**SCRS**") revealed that the Company was *prima-facie* non-compliant with the MER since July 2023. The MER of the Company as on July 31, 2023 was negative Rs.106.6 million, and it further decreased to negative Rs.205.5 million as on January 31, 2024, contrary to the requirements prescribed under rule 7(3) of the NBFC Rules and regulations 4 of the NBFC Regulations, which clearly require the Company to maintain MER of Rs.50 million at all times. Details of the reported MER of the Company since July 31, 2023 till January 31, 2024 is tabulated below:

(Figures: Rs. in million)

Reporting Date	**Paid-up Capital (a)**	**Unappropriated Profit/Loss (b)**	**Subordinated Loan (rate of profit approved by the Commission) (c)**	**Equity as per record (a+b+c=d)**	**Advance against Ordinary shares as claimed by the Company (e)**	**Subordinated Loan (rate of profit unapproved by the Commission) (f)**	**Equity position as claimed by the Company (d+e+f)**
31-07-23	162	(285)	16	(106.6)	174	14	82
30-08-23	162	(302)	16	(123.8)	174	14	65
31-09-23	162	(323)	16	(145.2)	174	14	43
30-11-23	162	(355)	16	(176.8)	174	14	12
31-12-23	162	(369)	16	(191.0)	174	14	(3)
31-01-24	162	(383)	16	(205.5)	174	14	(17)

5. As demonstrated above, the Company had included the amounts pertaining to Advance against issue of ordinary shares (Rs.174 million) and subordinated loan where rate of profit was not approved by the Commission (Rs.14 million) in its equity, *prima facie* in violation of the rule 7(3) of the NBFC Rules read with regulation 4 of the NBFC Regulations. The inclusion of the said amounts apparently resulted in a positive equity position of the Company for the months from July 2023 till November 2023. However, in terms of rule 2(xix) of the NBFC Rules, an advance against issue of shares is not included in the definition of "equity". Further, as per the record available with the Commission, the Commission approved the markup rate on the subordinated loan of the Company amounting to Rs.16 million vide letter dated August 4, 2023; however, the approval of rate of return on Rs. 14 million subordinated loan was in process and still not approved. Therefore, had the amounts of advance against issue of shares of Rs.174 million and the unapproved subordinated loan of Rs.14 million not been included as per the relevant provision of law, the MER of the Company actually be negative Rs.(205.5) million as on January 31, 2024.

6. In order to probe the matter of non-compliance with MER were taken up with the Company by the Commission. In response, the Company vide email dated March 07, 2024 submitted that:

"Cashew Financial Services Limited qualifies under "digital only" lender category (whitelisted apps) and applicable MER as per regulation would be PKR 20m. The reported equity as per return needs to take into account subordinated loans and advance against shares for calculation. Please see breakup for MER calculation as of 31 December 2023. As per shared working, the net equity position would be negative PKR (2.5)m".

7. In connection with the above response, the Company vide email dated March 22, 2024 further informed that:

"Please see attached approval/permission to launch digital lending app. Also the mobile application for Cashew Financial Services Limited "Muawin" has been whitelisted in SECP list".

"Our application dated June 12, 2023 was for approval of subordinated loan for PKR 30m (PKR 16m+14m). In lieu of same, approval was granted on August 4 2023 but for PKR 16m. We highlighted same and sent follow-up requests. The request for approval of remaining PKR 14m subordinated loan amount is pending with Lending & PF dept".

8. The aforesaid contraventions indicated that the Respondents *prima facie* contravened the provisions of rule 7(3) of the NBFC Rules read with regulation 4 of the NBFC Regulations, which attracts penal action as provided under Section 282J (1) & (2) of the Ordinance. For ease of reference, the same are reproduced as under:

The NBFC Rules:
"7(3). An NBFC shall comply with such minimum equity requirement or any other requirement in lieu of minimum equity requirement as may be prescribed by the Commission from time to time for specific form of business or class of companies by notification in the official Gazette."

The NBFC Regulations:
"4. An NBFC licensed by the Commission to undertake any form of business mentioned in Regulation 3 shall, at all the times, meet the minimum equity requirement or any other requirement in lieu of minimum equity requirement in respect of each form of business as provided in Schedule I."

The Ordinance:
Section 282 J: ***Penalty for failure, refusal to comply with, or contravention of any provision of this Part.-***
(1) Notwithstanding anything contained in any other provision of this Ordinance, if a NBFC [or the notified entity]or its officers (including auditors) fails or refuses to comply with, or contravenes any provision contained in this Part or of any of the provisions of the rules or regulations made under section 282 B or regulation, circular or directive or any direction or order passed by the Commission under the provisions contained in this Part or knowingly and willfully authorizes or permits such failure, refusal or contravention, shall, in addition to any other liability under this Ordinance, be also punishable with fine the amount of which shall not exceed fifty million rupees:

Provided that if the failure, refusal, default, contravention is committed by NBFC or the notified entity, every director, manager, or other officer [or person responsible for the conduct of its affairs] shall, unless he proves that the failure or contravention or default took place or committed without his knowledge, or that he exercised all diligence to prevent its commission, be deemed to be guilty of the offence.

(2) Without prejudice to the provisions of sub-section (1), in case of contravention of any provision of this Ordinance or rules or regulations made or non-compliance of any direction given or order passed thereunder by the Commission, the Commission may cancel or suspend any one or more of the licenses in respect of various forms of business of the NBFC or registration granted to any notified entity, after issuing a show cause notice and giving such NBFC or notified entity as the case may be, an opportunity of being heard or pass any other order which may be deemed appropriate by the Commission."

9. Taking cognizance of the aforementioned non-compliances, a SCN was served upon the Respondents on May 08, 2024, requiring them to show cause in writing as to why penal action as provided under sub-section (1) & (2) of Section 282J of the Ordinance, may not be taken against them for the aforementioned contravention of the law. However, the Respondents did not submit any written response to the SCN.

10. In order to provide an opportunity of being heard to the Respondents, a hearing in the matter was initially fixed for January 08, 2025. On which date, the Respondent Nos. (ii), (v) and (vii) appeared in their personal capacities as well as Authorized Representatives of Respondent No. (i), i.e., the Company. However, the remaining Respondents neither appeared in person nor authorized any person for their representation. Hence, in order to afford a fair opportunity to be heard to all the Respondents, the proceedings were duly adjourned, and another hearing in the matter was fixed for January 13, 2025 with clear instructions to the attending Respondents to either inform the absent Respondents of the SCN or present valid authorization documents on their behalf. Moreover, the Respondents were also advised to submit the written response to the SCN. On January 13, 2025, again only the Respondents No. (ii), (v) and (vii) appeared, without presenting any authorization documents on behalf of the remaining Respondents. As a result, hearing was once again re-fixed for January 20, 2025. At the re-fixed hearing, the Respondents No. (iv) (v) and (vi) appeared in their personal capacity, while Respondent Nos. (ii) (vii) appeared both personally and as Authorized Representatives of Respondent Nos. (i) and (viii), respectively. Additionally, Mr. Rana Sadaqat Ali attended the hearing as an Authorized Representative of Respondent No. (iii).

11. During the hearing, the Authorized Representative of Respondent No. iii submitted that the Respondent had resigned from the Company with effect from March 25, 2024 (i.e., prior to the issuance of the SCN) and provided certified copy of Form 9 as documentary evidence in support of this claim. He further requested that, in the interest of justice, the Respondent No. iii should no longer be addressed or required to attend any future proceedings related to the SCN.

12. The remaining Respondents informed that the Company is currently facing a negative MER of Rs.(6) million, resulting in a total shortfall of Rs. 26 million against the required MER of Rs. 20 million. They maintained that since the Company is engaged in digital lending, the applicable MER should be Rs. 20 million as prescribed in the NBFC Regulations specifically for digital NBMFC. They also stated that the Company has secured a commitment to receive funding of USD 300,000 (approximately Rs. 84 million) by June 2025, and expressed confidence that this capital infusion would help bridge the equity gap. Accordingly, they requested an extended period until March 31, 2025, to fulfil the MER requirement with a further request to hold the instant proceedings in abeyance till said time.

13. It was clearly communicated to the Respondents that under rule 2(xix) of the NBFC Rules, "advance against share deposit" is not considered as part of equity. However, the Company's filings through SCRS indicated that such advances were being included in the MER calculation, which is not permissible. In response to the Respondents' request for additional time to meet the MER requirement, they were advised to provide an update to the Commission by March 31, 2025, outlining the steps taken to improve the MER and their current compliance status.

14. During the hearing, the Respondents submitted the Company's letter dated January 20, 2025 in response to the SCN, which *inter alia* stated that:

"Business Plan

Our immediate priority is to address the company's current equity position. As of 31st December 2024, it stands at a negative PKR (6) million. To address this challenge and ensure compliance with the Minimum Equity Requirement (MER), an equity injection of $177,000 is planned by 31st March 2025. This capital infusion is expected to stabilize our financial position and pave the way for sustainable growth.

Strategically, we are aligning our efforts to focus on securing and retaining big-ticket customers. This approach is anticipated to deliver higher revenue streams and long-term partnerships.

Additionally, we are preparing to launch new products while expanding our portfolio within existing product categories. This will be driven by a refreshed strategy that leverages market insights and innovation to meet evolving customer needs.

Our overarching objective is to achieve breakeven by the end of fiscal year 2026. To support this, we plan to raise further investment of USD 500,000 between October 2025 and March 2026, ensuring sufficient resources are available to drive our growth plans and meet operational goals effectively.

Minimum Equity Requirement

As a startup, achieving profitability has been a key objective of the company's strategy while the short-term target was to obtain sufficient funding to construct a sustainable business model with negligible non-performing *loans. Over time, we have strategically refined our model to enhance efficiency, leveraging monthly insights to drive continuous improvements.*

In our efforts to curtail the challenges, our equity position deteriorated below the minimum equity requirement (MER) for digital lenders as per Rule 7(3) of the Non-Banking Finance Companies (Establishment and Regulations) Rules, 2003. As stated in the Non-Banking Finance Companies and Notified Entities Regulation, 2008 Schedule I, the MER for companies in the line of business of Investment Finance Services License classified under Digital Lending is PKR 20 million.

As of 31-Dec-2024, Muawin faces a shortfall of PKR 26,071,263 to comply with the requirement. Muawin gained commitment to receive funds equivalent to USD 300,000 (PKR equivalent ~ 84 million) in June 2025, aimed to allow us the necessary margin to make the adjustments we need to implement our plans for the fiscal year 2024-2025. The details (current and projected March 2025 equity) are provided in the table below:

Equity	***Dec-24 (amount in PKR)***	***Mar-25 (amount in PKR)***
Paid up Capital	*65,855,620*	*65,855,620*
Share Premium	*96,129,380*	*96,129,380*
Advance Against Shares	*257,969,403*	*307,178,183*
Subordinated Loans	*30,000,000*	*30,000,000*
Net Profit/Loss	*(456,025,666)*	*(472,079,910)*
Net Equity	***(6,071,263)***	***27,083,273***
**Forecasted values based on our estimate of our business operations for the next quarter.*		

We have received USD 122,990 from the total commitment in tranches since July 2024 while the remaining USD 177,010 will be received by 31st March 2025 as per our signed term sheet. The incoming funds will allow us to ameliorate our deficit equity position by not only meeting the PRK 20 million MER applicable to us but will also enable us to have a surplus of more than PKR 7 million for expanding our portfolio in the planned products.

We are making continuous progress in our business plan since the start of the new fiscal year, with significant improvements to our new product launches.

Therefore, our request for the Commission is to grant us the necessary time until 31-Mar-2025."

15. I have gone through the relevant provisions of rule 7(3) of the NBFC Rules and regulations 4 of the NBFC Regulations, and considered the facts of the case, available record of the Company, as well as written and verbal submissions of the Respondents. I have also perused Section 282 J (1) and (2) of the Ordinance, which stipulate penal provisions for contravention of the afore-referred provision of the law. I have noted the following pertinent aspects vis-à-vis the applicable requirements of law:

(i) The requirements of rule 7(3) of the NBFC Rules and regulations 4 of the NBFC Regulations are explicit and without any exception, which require all NBFCs to ensure compliance with MER prescribed by the Commission from time to time, at all times. <u>It is pertinent to highlight that MER ensures that an NBFC has sufficient cushion of equity capital to absorb losses and maintain solvency during adverse financial conditions or unexpected events and also acts as a buffer against credit, market and operational risks inherent in lending businesses</u>. Maintenance of MER enhances investor confidence and support the NBFC's growth and business expansion plans which at the same time ensures effective management of systemic risk specifically linked to the lending NBFC. Moreover, maintaining MER is not just a regulatory obligation but a cornerstone/foundation of financial prudence and stability for lending NBFCs and ensures resilience against financial shocks, supports sustainable growth, and fosters confidence among stakeholders in the NBFC's ability to operate safely and profitably in the financial market.

(ii) The Company, holding a license to undertake Non-Banking Microfinance business, was at all times required to maintain MER of Rs. 50 million in terms of rule 7(3) of the NBFC Rules read with regulation 4 of the NBFC Regulations. <u>As per the information submitted by the Respondents through</u>

SCRS for the period from July 2023 till January 2024, it was revealed that the equity reported by the Company is below the minimum requirement of Rs. 50 million since July 2023 and the same gradually deteriorated from negative Rs. (106.6) million in July 2023 to negative Rs. (205.5) million in January 2024, as elaborated in the table below:

Date of SCRS Return	**Equity (Rs. in million)**
July, 2023	(106.6)
August, 2023	(123.8)
September, 2023	(145.2)
November, 2023	(176.8)
December, 2023	(191.0)
January, 2024	(205.5)

(iii) The Company, through its letter dated January 20, 2025 (in response to SCN), reported its equity position as negative Rs. (6) million as of December 2024 and projected equity of Rs. 27 million for March 2025 respectively. However, both calculations included substantial amounts shown as "Advance against shares" (Rs. 258 million for December 2024 and Rs. 307 million for March 2025), which is not permissible under rule 2(xix) of the NBFC Rules. Therefore, the stance of the Company that its Net Equity as of December 2024 is negative Rs.(6) million and projected equity as of March 2025 will be Rs. 27 million has no grounds, as the share deposit money is not included as a component of equity as per rule 2(xix) of the NBFC Rules. The NBFC is obliged to comply with the computation requirements strictly in the manner specified in the regulatory framework. It is also observed that the reported equity position of the Company has now further deteriorated as the reported equity of the Company through SCRS on June 2025 is negative Rs. (38) million, which if correctly calculated by removing the factor of advance against equity and unapproved subordinated loan will further worsen.

(iv) The Respondents claimed that as a digital lending NBMFC, the Company is obligated to a maintain MER of Rs.20 million, instead of Rs.50 million. They referred to the Commission's SRO No. 592(I)/2023 dated May 17, 2023, which amended the NBFC Regulations to lower the MER for NBMFCs engaged in microfinancing through digital means to Rs.20 million. The Respondents also applied to the Commission on July 26, 2023, requesting conversion of the Company's license to a digital-only lending model. However, a Circular No. 12 of 2023 was issued by the Commission on August 31, 2023, pursuant to which NBFCs were required to obtain prior approval for changes in the type of business activity stated in its original license application. Therefore, since the Company's license has not been formally modified or approved as "digital-only," it remains subject to the original MER requirement of Rs.50 million. It is seriously concerning to observe that even if the argument of the Company relating to maintenance of Rs.20 million equity is accepted, the MER of the Company (computed as per the express and obligatory requirements of the NBFC Rules and Regulations) has remained way below this threshold and in fact, has been in adverse position for a considerable period of time since July 2023 till date.

(v) It is noted that, despite the lapse of given timeline till March 31, 2025, the Respondents have neither shared an update on the steps taken to improve the MER nor confirmed compliance with the MER as they projected in written response. It is evident from the above that the Respondents have neither complied with the MER since July 2023 despite lapse of considerable time period nor have undertaken any concretive measures to establish sustainable business practices to improve their equity position. Thus, non-compliance of rule 7(3) of the NBFC Rules read with regulation 4 of the NBFC Regulations is established.

16. In light of the above-mentioned facts and circumstances, I am of the well-considered view that the Respondents have failed to comply with the requirements of rule 7(3) of the NBFC Rules and regulations 4 of the NBFC Regulations, which attracts the penal action as entailed under Section 282 J (1) & (2) of the Ordinance which includes a fine up to Rs.50,000,000/- and cancellation or suspension of license. However, keeping in view the Respondents' earlier claimed efforts to revive their MER, and in order to provide them a final opportunity to achieve compliance with the regulatory requirement, I;

a) In exercise of the powers conferred upon me under sub-section (1) of Section 282J of the Ordinance read with S.R.O. 1545(I)/2019 dated December 6, 2019, hereby, impose a token fine of **Rs.50,000/- (Rupees Fifty Thousand Only)** on the Company on account of the aforesaid established default;

b) Furthermore, in exercise of powers conferred upon me under sub-section (2) of Section 282 J of the Ordinance read with S.R.O. 232(I)/2020 dated March 16, 2020, hereby, order to **suspend** the license of the Company to undertake Non-Banking Microfinance Services granted in terms of rule 5(6) of the NBFC Rules; with immediate effect (i.e. from the date of this Order) till the time the Company comply with the MER as per the requirement of rule 7(3) of NBFC Rules read with regulation 4 of the NBFC Regulations; and

c) Furthermore, in case the Company is unable to comply with the MER in terms of rule 7(3) of the NBFC Rules read with regulations 4 of the NBFC Regulations till December 31, 2025, the license of the Company shall stand **cancelled** without requiring any further proceedings in the matter and the Department concerned may proceed to undertake necessary action as per sub-section (3) of the Section 282 J of the Ordinance accordingly read with other relevant provisions of the law.

17. The Respondents are hereby directed to deposit the afore-mentioned fine in the designated Bank Account maintained in the name of the Securities and Exchange Commission of Pakistan with MCB Bank Limited or United Bank Limited within thirty (30) days of the date of this Order and furnish receipted voucher evidencing payment of the same. In case of non-deposit of fine by Respondents, the Commission will initiate actions including but not limited to section 282J (5) of the Ordinance.

18. Without prejudice to the above, in case the Noticee(s) are aggrieved by this Order, they may, within thirty days of the Order, prefer to file review application in terms of Section 32B of the Securities and Exchange Commission of Pakistan Act, 1997 ("SECP Act") or may file an appeal to Appellate Bench of the Commission in terms of Section 33 of the SECP Act in accordance with the procedure for filing an appeal as laid down under the Securities and Exchange Commission of Pakistan (Appellate Bench Procedure) Rules, 2003.

(Zeeshan Rehman Khattak)
Commissioner
Specialized Companies Division

Announced:
September 29, 2025
Islamabad.

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