



**SECURITIES & EXCHANGE COMMISSION OF PAKISTAN**  
**NIC Building, Jinnah Avenue, Blue Area, Islamabad**

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**Before the Commissioner (Securities Market Division)**

**In the matter of Show Cause Notice dated 06.09.2004 issued to  
Pakistan Kuwait Investment Company (Pvt) Limited (PKIC)**

**Date of Hearing:**

**September 28, 2004**

**Present at the hearing:**

Representing PKIC:

(i) Mr. Zaigham Mehmood Rizvi  
(ii) Mr. Mehmood Mandviwalla

Managing Director  
Legal Counsel

Assisting the Commissioner (SM):

(i) Mr. Imran Inayat Butt  
(ii) Mr. Junaid Mirza

Director (SM)  
Assistant Director (SM)

**ORDER**

1. This matter arises out of the Show Cause Notice No. 1(13)FFC/MSW/SMD/2004/018 dated September 6, 2004 issued by the Securities and Exchange Commission of Pakistan (the "Commission") to the Pakistan Kuwait Investment Company (Pvt) Limited ("PKIC").

2. Facts of the case are that on 28 April 2004, the meeting of Board of Directors of Fauji Fertilizer Company Limited ("FFCL") was held to consider the quarterly un-audited accounts of the company for the quarter ended March 31, 2004. The recommendations of the Board of Directors for declaration of interim cash dividend and increase in authorized capital were approved in the board meeting and the same was communicated to the Stock Exchanges in two

phases at different timings. Market Monitoring & Surveillance Wing, Securities Market Division of the Commission observed considerable volatility in the share price of FFCL on 28 April 2004. The trading behavior in the share of FFCL, both in terms of turnover and price, was observed to be unusual compared to its recent historical trend. The share price of FFCL opened at Rs. 127.20 and went upto Rs. 130.65. Later on, it fell to Rs. 119.80 (the lowest price limit for the day) and finally closed at Rs. 126.40. The unusual turnover of over 25 million shares and volatility in the share price of FFCL on 28 April 2004 was thought to be attributed to several factors such as announcement of interim cash dividend as opposed to market rumour of bonus issue and announcements of two price sensitive information with intervals.

3. The Commission obtained the details of trading which took place on 28 April 2004 in the shares of FFCL from the Karachi Stock Exchange (“KSE”) in order to find out possibility of any market abuse. The Commission also sought information from brokers of KSE, various institutions and all the Directors & Company Secretary of FFCL. During the course of analysis of data, it was observed that PKIC has actively traded in the shares of FFCL. It was particularly noted that PKIC was actively involved in buying and selling of FFCL shares before the first announcement about first interim dividend. PKIC was the major buyer in the shares of FFCL when the share price of FFCL fell down on the announcement of interim cash dividend by FFCL as opposed to the market expectations of the bonus shares.

4. It was noted that FFCL issued the notice of the Board meeting on 20 April 2004. It was observed that PKIC was actively involved in the buying and selling of shares of FFCL during the period from 21 April 2004 to 28 April 2004. Based on the data received, PKIC bought 2,604,800 shares and sold 2,370,500 shares in the regular market and bought 250,000 shares and sold 315,500 shares in the future market during this period. It was further noted that Managing Director of PKIC is a director of FFCL. Thus trading by PKIC in the shares of FFCL during the period from 21 April 2004 to 28 April 2004, in particular on 28 April 2004, prima facie, appeared to be a violation of section 15A of the Securities and Exchange Ordinance, 1969. Consequently, a show cause notice dated September 6, 2004 was served on PKIC calling upon to show cause as to why action may not be taken against PKIC under section 15B of the Securities and Exchange Ordinance, 1969 for the aforesaid violation.

5. The hearing was fixed on September 13, 2004 which was changed to September 28, 2004 on the request of Legal Counsel of PKIC. On the date of hearing, Mr. Zaigham Mehmood Rizvi, Managing Director of PKIC (“MD PKIC”) and Mr. Mehmood Mandviwalla, Legal Counsel of PKIC appeared before me. Further they also submitted their reply to the show cause notice in writing. They stated that :

*(a) As a matter of routine occurrence the market faces volatility on high and low expectations of market when the financial results are awaited. The volatility also occurs as a consequence of the actual decision taken by the management of the respective companies. The volatility trends therefore should be compared with the trend of other companies in a similar situation as opposed to trends in FFCL’s shares in the recent past. As an example, the volatility in the shares of PSO and PAKO at the time of their board meetings was no different from that of FFCL.*

*(b) The trading volumes of PKIC are consistent with its overall policy with regard to its holding in FFCL. FFCL is a part of PKIC’s core portfolio and is among the top 10 holdings of PKIC. PKIC’s policy on investment in FFCL is based on its long term growth prospects and above market yield. This view is supported by PKIC’s research analyses and those of other major brokerage houses. Like all other investors who have taken a long term view on FFCL, PKIC traders reacted quickly when the share price dipped making the yields more attractive. The trading activity by PKIC is fairly normal if looked at in the overall trading volume at the relevant time and the market interest and reaction to the information disseminated after the board decisions.*

*(c) PKIC has acted on the information which was available in the market and the assessment of its Portfolio Management Committee and had absolutely no connection with any other information that might have been received by the PKIC’s nominee on the board of FFCL. PKIC held 7,215,100 shares of FFCL as on April 20, 2004 and PKIC’s shareholding as of April 29, 2004 stood at 7,383,900 shares. The increase in the trading volume of PKIC was purely as result of the trading opportunities provided by the volatility and trading volumes in the market. The trading volume of PKIC are completely*

*compatible with the market movement and there is no significant change in the net position of PKIC holding in FFCL. It is also pertinent to mention that the entire trading was at the average market price. The net gain made by PKIC during the period under consideration is only Rs. 267,755 in both ready and futures market.*

*(d) Daily trading activities of PKIC are managed by its Portfolio Management Committee consisting of four members. The committee makes its decision on the basis of its professional judgment within the policy guidelines laid down by the Board of PKIC from time to time and the Portfolio Strategy Committee. The Portfolio Management Committee manages the day to day functioning of the portfolio and is guided by the Capital Markets Department Investment and Trading Manual which is approved by the Board of Directors of PKIC and that its trader and Portfolio Management Committee was not privy to any confidential information that might have been available to the MD PKIC and directors of FFCL.*

*(e) The MD PKIC also requested the Commission the need for taking appropriate steps and creating awareness among market participants including investors about the pitfall of market abuses.*

6. I have heard the arguments of the MD PKIC and Legal Counsel of PKIC. I am not convinced with the arguments put forward by them in their defense as they have tried to explain about the investment policy of PKIC and how their traders carry out their trading activities. The show cause notice was issued in violation of section 15A and it has to be seen whether any violation has been committed by PKIC or not. In order to ascertain this, one needs to find the answers to the following:

- (i) Whether PKIC is, directly or indirectly, associated with FFCL?*
- (ii) Whether PKIC was directly or indirectly in possession of any material information about FFCL during the period from April 21 – 28, 2004 which was not generally available?*

(iii) *Is there any restriction on dealing in securities by a person associated with a company while in possession of any price sensitive information?*

The answer to 6 (i) above is “Yes” as MD PKIC was occupying the position of director in FFCL, a position which gave him access to price sensitive information which was generally not available to others.

The answer to 6 (ii) above is also “Yes” as MD PKIC attended the Board meeting of FFCL and actively participated in the proceedings.

The answer to 6 (iii) above is “Yes” as section 15A of the Ordinance prohibits a person who has been at any time during the preceding six months, associated with a company to, directly or indirectly, deal on a stock exchange in any listed securities or cause any other person to deal in securities of such company if he is in possession of price sensitive information which is not generally available.

7. In view of the above, I have no doubt in my mind that PKIC was associated with FFCL by virtue of its Managing Director who was also a director of FFCL and was in possession of price sensitive information. As such PKIC was prohibited from dealing in shares of FFCL under section 15A of the Ordinance.

8. An analysis of trading by PKIC in the shares of FFCL, particularly on 28 April 2004 it was observed that PKIC bought 636,000 shares @ Rs. 121.69 and sold 1,086,000 @ Rs.123.70 in the regular market during 9:45 a.m. to 1:30 p.m. i.e. before the announcement of first interim dividend by FFCL which was made at 1:34 p.m. Further PKIC also bought 1,868,800 shares of FFCL @ Rs. 124.71 after 1:35 p.m. and before the 2<sup>nd</sup> announcement regarding increase in authorized capital was made public. Of these 1,793,700 shares were purchased between 2:00 p.m. to 2:13 p.m. i.e. few minutes before the 2<sup>nd</sup> announcement. The share price of FFCL closed at Rs. 126.40 on 28 April 2004. It may also be interesting to note that announcement by FFCL to increase authorized capital gave an indication to the market that bonus shares could be issued shortly. As a matter of record, the FFCL in their subsequent meeting held on 29 July 2004

declared bonus @ 15%. This clearly indicate that buying and selling by PKIC during the period under consideration particularly on 28 April 2004 was in such a precise manner which can only be done by a person having inside information. The gains made by PKIC during the period under consideration were Rs. 267,755, a figure provided by PKIC.

9. In view of the foregoing, I am of the considered opinion that PKIC has indulged into insider trading in contravention of section 15A of the Ordinance. I, therefore, impose a fine of Rs. 535,510/= being two times the amount of gain accrued to PKIC, under sub-section (4) of section 15B of the Securities & Exchange Ordinance, 1969. PKIC is directed to deposit the said fine in the designated bank account maintained in the name of Securities and Exchange Commission of Pakistan with Habib Bank Limited within 30 days of the date of this order.

10. The Order is being issued without prejudice to any or all actions that may be required to be taken under the law against individual director(s)/officers(s) or any other person involved in violation of any other securities laws which may have been committed.

**(Shahid Ghaffar)**  
Commissioner (Securities Market)

**Announced**  
**Islamabad on 28 October 2004**