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SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN**Adjudication Department-I****Adjudication Division**

ORDER	
Name of Company:	M/s Kafalah Foundation
Show Cause Notice No. & Date:	SCD/Adj-I/Kafalah/170/2025-344 dated February 10, 2025
Respondents:	(i) Kafalah Foundation, the Company (ii) Arif Khalil, Director/ CEO (iii) Aziz ul Haq Nishtar, Director (iv) Mohammad Wasay, Director (v) Anis Ahmad, Director (vi) Zarar Khan, Director
Date(s) of Hearing(s):	March 10, 2025
Case represented by:	Mr. Abdul Basit Khattak, Legal Counsel (as the Authorized Representative)
Provision of law involved:	Section 282J (1) of the Companies Ordinance, 1984 for Contravention of Rule 7(1)(da) read with Schedule-I of the Non-Banking Finance Companies (Establishment and Regulations) Rules, 2003
Date of Order:	April 22, 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/Kafalah/170/2025-344 dated February 10, 2025 (the “SCN”) against M/s Kafalah Foundation (the “Company”) and its Board of Directors (“BoD”), hereinafter collectively referred to as the “Respondents”, for contravention of the requirements of rule 7(1)(da) read with Schedule I of the Non-Banking Finance Companies (Establishment and Regulations) Rules, 2003 (the “NBFC Rules”), read with Section 282J (1) of the Companies Ordinance, 1984 (the “Ordinance”).

2. The provisions of rule 7(1)(da) read with Clause 7 of Schedule I of the NBFC Rules provide that a NBFC shall furnish to the Commission its annual financial statements in accordance with requirements of Schedule I of the NBFC Rules which in turn refer to the requirements of the Ordinance, now the Companies Act, 2017 (the “Act”). The corresponding provisions of the Act set forth the following requirements for the submission of annual audited financial statements:

- (i) Section 223(3) of the Act requires that; “(3) Subject to the provision of sub-section (2), the first financial statement must be laid at some date not later than sixteen months after the date of incorporation of the company and subsequently once at least in every calendar year.
- (ii) Section 233(1) of the Act requires that; “(1) Without prejudice to the provisions of sub-section (5) of section 223, after the audited financial statements have been laid before the company at the annual general meeting and duly adopted, a copy of such financial statements together with reports and documents required to be annexed to the same, duly signed in the manner provided by section 226, 232 and 251, shall be filed by the company with the registrar within thirty days from the date of such meeting in case of a listed company and within fifteen days in case of any other company.”
- (iii) Section 132(1) of the Act requires that; “(1) Every Company shall hold, an annual general meeting within sixteen months from the date of its incorporation and thereafter once in every calendar year within a period of one hundred and twenty days following the close of its financial year.”

3. The brief facts of the case are that the Company was incorporated on April 14, 2023 as a Private Limited Company under the Companies Act, 2017 (the "Act") and licensed by the Commission as a Non-Banking Finance Company ("NBFC") under the NBFC Rules on September 06, 2024 to undertake Investment Finance Services, restricted to microfinancing. In terms of the aforesaid requirements, the Company was required to lay before its Annual General Meeting (AGM), the Audited Financial Statements within sixteen months from the date of its incorporation i.e. by August 13, 2024 and the Company was further required to submit with the Registrar its Annual Audited Accounts by August 28, 2024. However, the Company failed to file its first annual audited accounts with the Registrar within the stipulated time, as confirmed by the records of the relevant Company Registration Office.

4. In order to probe the matter, the Commission vide email dated December 20, 2024 and subsequent reminder emails dated December 27, 2024, January 03, 2025 and January 09, 2025 sought justification from the Company for non-submission of annual audited financial statements. However, the Company failed to respond to any of the aforesaid emails of the Commission.

5. The aforesaid contraventions indicated that the Respondents, *prima facie*, failed to comply with the requirements of rule 7(1)(da) read with Schedule I of the NBFC Rules, which attract penal action under Section 282J (1) of the Ordinance. The relevant provisions of law are reproduced hereunder:

Rule 7(1)(da) of the NBFC Rules:

"(1) A NBFC shall

(da) furnish to the Commission its quarterly and annual financial statements in accordance with Schedule I"

Section 282J (1) of the Ordinance:

"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."

6. Accordingly, SCN was served upon the Respondents on February 10, 2025 to show the cause in writing as to why a penal action may not be taken against them for non-compliance with the provisions of rule 7(1)(da) of the NBFC Rules. The Respondents, however failed to furnish response to the SCN within the time frame.

7. In order to provide an opportunity of being heard to the Respondents and to meet the ends of justice, hearing in the matter was fixed for March 10, 2025, which was attended by Mr. Abdul Basit Khattak (the "Authorized Representative"). The Authorized Representative during the hearing, *inter-alia*, submitted that:

- (i) Admittance of delay and assurance of future compliance.

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(ii) The license was issued in September 2024; therefore, the Company was busy in organizing its operations and understanding the necessary initial activities.

(iii) Assurance to comply with the submissions by March 25, 2025 with a request for leniency.

8. Subsequent to the hearing, an email dated March 25, 2025 was submitted by the Authorized Representative, *inter alia*, stating that:

(i) The Company obtained NBFC license in September 2024, and due to unforeseen circumstances, it was unable to submit its return within the stipulated time frame.

(ii) The return for the year 2024 has been submitted and the approval for the same is awaited from the CRO. The delay was caused by system maintenance issues with Ezfile.

(iii) Request for leniency and assurance to provide certified true copy of the returns

(iv) Assurance for full compliance of all the returns within the stipulated time.

9. I have gone through the relevant provisions of rule 7(1)(da) of the NBFC Rules and considered the facts of the case, available record of the Company, as well as the verbal submissions of the Representative. I have also perused Section 282J(1) of the Ordinance, which stipulates penal provisions for contravention of the afore-referred provision of the law. It is observed that in terms of rule 7(1)(da) of the NBFC Rules, every NBFC is required to file its annual audited financial statements within fifteen (15) days of their adoption in the annual general meeting; which, in turn, is required to be held once in every calendar year within a period of one hundred and twenty (120) days following the close of its financial year.

10. The holding of AGMs and filing of audited financial statements in a timely manner is a crucial legal requirement that ensures transparency, accountability, shareholder engagement and provides an accurate reflection of its financial health to all stakeholders. The audited financial statements allow shareholders, creditors, and regulators to assess the financial position of the company, fostering transparency and trust and delays in their filing may create uncertainty, undermine investor confidence and promote accountability within the company. Adhering to legal provisions under the Act is essential for protecting shareholders' rights, fostering trust, and promoting good corporate governance. A public/licensed company must meet its statutory duties to hold AGMs and file audited financial statements with the Registrar, in time, facilitating open communication and feedback from its shareholders. Accordingly, the Respondents were obligated to hold the AGM of the Company for the financial year 2023-24 by August 13, 2024 and to file the approved annual audited financial statements with the Registrar by August 28, 2024, which they have evidently failed to do so.

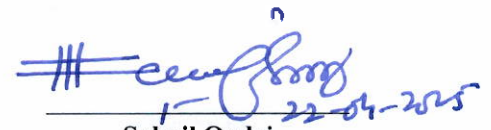
11. It is crucial to note that the law clearly specifies the timelines and procedure for these actions, therefore, the failure of Respondents to hold the AGM and to file the annual financial statements in a timely and prescribed manner, as stated above, is a contravention of rule 7(1)(da) read with Schedule I of the NBFC Rules. In a judgment passed by the Appellate Bench of the Commission in the matter of *TRG Pakistan Limited vs. the Securities and Exchange Commission of Pakistan* (2011 CLD 1647), it was, *inter-alia*, held that "*Directors of the company were responsible to hold timely Annual General Meeting for providing timely information to its shareholders in order to enable them to consider and approve the significant matters like approval of accounts, appointment of auditors, election of Directors, performance of the company and other important issues relating to the company. It was also held that Explanations with regard to company's failure to furnish copy of its Annual report and other financial statements of the company to the Commission within the prescribed time as required under R. 7(1) of Non-Banking Finance Companies (Establishment and Regulations) Rules, 2003, did not prove that failure or contravention or default took place or was committed without the Directors' knowledge---*"

12. In view of the above-stated facts and circumstances, I am of the considered view that by failing to file annual audited financial statements for the year ended June 30, 2024 with the Registrar within the prescribed timeline, the Respondents have contravened the requirements of rule 7(1)(da) of the NBFC Rules. I, therefore, in exercise of the powers conferred upon me under sub-section (1) of Section 282J of the Ordinance vide S.R.O. 1545(I)/2019 dated December 6, 2019, hereby, conclude the instant proceedings by imposing an aggregate penalty of **Rs. 22,500/- (Rupees Twenty-Two Thousand and Five Hundred Only)** on the Respondents on account of the aforesaid established default in the following manner:

Sr. #	Names	Penalty (Rs.)
1.	Kafalah Foundation, the Company	10,000
2.	Arif Khalil, Director/ CEO	2,500
3.	Aziz ul Haq Nishtar, Director	2,500
4.	Mohammad Wasay, Director	2,500
5.	Anis Ahmad, Director	2,500
6.	Zarar Khan, Director	2,500
Total		22,500

The Respondents are also advised to ensure meticulous compliance with the applicable legal and regulatory requirements in future.

13. 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 bank challan to the Commission forthwith. In case of failure to deposit the penalty, the proceedings under Section the proceedings under Section 485 of the Act will be initiated for recovery of the penalty/fines as arrears of land revenue pursuant to provision of Section 42B of the Securities and Exchange Commission of Pakistan Act, 1997 along with initiation of proceedings under Section 282J (5) of the Ordinance.


Sohail Qadri
Director/ HOD
Adjudication Department-I

Announced:

Dated: April 22, 2025

Islamabad