



Securities and Exchange Commission of Pakistan

Securities Market Division
Public offering and Regulated Persons Department

Through Courier

Before the Commissioner (SMD)

In the matter of Show Cause Notice to HK Securities (Pvt.) Limited in terms of Section 152 of the Securities Act, 2015 read with Regulation 11 of the Securities Broker (Licensing & Operations) Regulations, 2016

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| Date of Hearing | July 27, 2017 |
| Present at the Hearing | 1. Mumtaz Hussain Shah, CEO 2. Ahmed Bashir Advocate (Authorized Representative) |
| <i>Representing HK Securities (Pvt.) Limited</i> | |
| <i>Assisting the Commissioner (SMD)</i> | Ms. Asima Wajid Additional Joint Director (SMD-PRPD) |

ORDER

This Order shall dispose of the proceeding initiated through Show Cause Notice dated July 14, 2017 ("SCN") issued to M/s. HK Securities (Pvt.) Limited ("**Respondent**") under section 152 of the Securities Act, 2015 (the "**Act**") read with Regulation 11 of the Securities Brokers (Licensing and Operations) Regulations, 2016 (the "**Regulations**").

2. In terms of proviso of regulation 3 of the Regulations, Respondent is deemed licensed under section 177 (3) and 178(2)(e) of the Act which are reproduced hereunder:

"177. Transitional provisions.

(3) A person who, immediately prior to the commencement of Part V of this Act, is registered as a broker under section 5A of the Securities and Exchange Ordinance, 1969 (XVII of 1969), shall be deemed to be licensed under this Act as a securities broker till the time his existing certificate of registration remains valid and shall thereupon be required to obtain a licence under this Act and such person shall also be allowed to effect transactions in futures contracts until such time as it may be required to obtain a separate licence as a futures broker.

178. Repeal and savings.

2.(e) any licence, certificate or document issued made or granted under any enactment hereby repealed shall be deemed to have been issued, made or granted under this Act and shall, unless cancelled in pursuance of the provision of this Act, continue in force till the date specified in the certificate or document."

3. The licence renewal date of the Respondent was June 6, 2017 as it's existing registration expires on the said date. By virtue of promulgation of the Regulations, new regulatory regime was introduced w.e.f. June 30, 2016. Accordingly, the Respondent was required to submit its application for renewal of licence as securities broker under the Regulations on or before May 6, 2017. However, the Respondent failed to submit its application for renewal of licence as





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securities broker with in stipulated time period. Thus, the licence of the Respondent as a securities broker stood expired with effect from June 7, 2017.

4. The trading terminals of the Respondent were suspended by the Pakistan Stock Exchange Limited (“PSX”) vide notice dated March 16, 2017 owing to the following reasons:

- Operating trading terminals in violation of agreed terms of KATS Agreements from an unregistered office;
- Violation of office/branch office Regulations of PSX.

Moreover, upon failure of the Respondent to apply for renewal of licence under the Regulations, the PSX has further notified the continuation of suspension of the trading terminals of the Respondent vide notice dated June 6, 2017.

5. In view of the above facts the Respondent, prima facie, was not compliant with the provisions of Regulation 9(1) of the Regulations. Consequently, a SCN dated July 14, 2017 was issued to the Respondent whereby it was called upon to explain as to why the Respondent’s, licence as securities broker may not be cancelled in terms of regulation 11(3)(e) of the Regulations. The Respondent did not submitted any written response to the SCN.

6. The Respondent was also provided an opportunity of personal hearing. A hearing in the matter was held on July 27, 2017 before the undersigned at Securities and Exchange Commission of Pakistan (the “**Commission**”) Islamabad Office, wherein Mr. Ahmed Bashir, Advocate and Mr. Mumtaz Hussain Shah, CEO (“**Representatives**”) appeared before me and submitted that the matter of change in management of the Respondent was delayed and then rejected by PSX and the Commission. Further, an enquiry is being conducted by the Commission’s team. The Representatives of the Respondent were advised to submit their stance in writing latest by July 28, 2017. Accordingly, the legal counsel of the Respondent (i.e. Ahmed Bashir & Associates, Advocates & Solicitors) submitted the written response to the SCN vide letter dated July 27, 2017. The written response of the Respondent may be summarized as under:

“We respectfully submitted on behalf of our client as under:

1. *The show cause notice alleges that our client has not applied for renewal of its licence with in the prescribed dead lien i.e. by June 7, 2017 and therefore, its licence is liable to be cancelled.*

2. *In response, with due respect SECP is required to take the following facts in consideration:*

(a) Until December 2015 our Client was owned by four shareholders Mr. A. Hameed Shahid, Mrs. Surraya Hameed and two others. Majority shares were owned by Mr. A. Hameed Shahid. In December 2015, ninety five percent (95.5%) shareholding was purchased by M/s. Service Fabrics Limited and the remaining five percent (4.5%) shares were purchased by individuals. The new shareholders and management duly filed requisite documents and returns i.e. Form 29 and Form A etc. and also applied to PSX for registration and approval of change of management. PSX did not respond to our client’s application for ten



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months and on February 16, 2017 finally refused our client's application. Prior to this, for several months PSX kept insisting that our client should obtain NOC for change of management from the SECP in accordance with the Securities Act. In response to this our client submitted that the transaction in question predates the said statue. However, in February 2017 PSX rejected our client's application on the ground that Service Fabrics Limited did not meet the criteria as a winding up petition was pending against it in the Lahore High Court, Lahore. Interestingly, this winding up petition was filed by SECP itself during the period in question. Thus, apparently while the application was kept pending by PSX, a ground was first created to refuse our client's application for approval of change of management.

- (b) In June 2016, since our client's application for change of management was still pending, left with no other option it was compelled to apply for renewal of licence (2016) from the previous management (i.e. Mr. A. Hameed Shahid (ex-CEO). This was not due to any fault on the part of our client it self.
- (c) Due to rejection of its applications for approvals and NOCs our client's board was again compelled to sell it. On March 8, 2017 vide a resolution our client's Board of Directors decided to sell the shares and transfer management to Mr. Muhammad Asif Habib and another person. Initially, Form 29 was filed for change of management in April 2017, but the same was not approved on the grounds that our client has to first obtain approval of PSX. Our client applied to PSX for approval of change of management on April 21, 2017, where it is pending till date on the ground that it has forwarded the matter to SECP for issuance of a NOC for appointment of Mr. Muhammad Asif Habib as CEO/Director. For the last three months the matter has been pending before SECP for issuance of NOC, yet to our client's knowledge there are no signs of its issuance.
- (d) In this regard, it is also pertinent to mention that in March 2017, PSX suspended our client's trading terminals. Later, in the third week of March our client was subjected to the worst kind of harassment by an investigation/inquiry team of SECP which took away (and still has in its possession) all the documents of our client including company seal, stamps, chque books, data, IT syatem/back office and all records relating to applications for approvals and NOC for change of management. Moreover, bank accounts of our client are also blocked since then on SECP's instructions. All relevant documents are at present in SECP's possession and may be looked at and taken into account for a just decision of this matter. Due to this act of SECP's team out client's account holders have been waiting to retrieve their shares or equivalent funds for the last 4 months. And it is for this reason that our client is not in a position to make payments to anyone, including SECP, for renewal of its license.
- (e)

7. I have analyzed the facts of the case, relevant provisions of the Act and the Regulations and the arguments put forth by the Respondent via written response dated July 27, 2017. It is hereby concluded that, the matter of change in management and enquiry against the





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Respondent is a separate matter and has no relevance with the matter of filling the application for renewal of licence as a securities broker under the Regulations.

8. Keeping the forgoing in view, I am of the considered opinion that by not applying for renewal of licence the Respondent is non-compliant with the provisions of Regulation 9(1) of the Regulations. Thus, the licence of the Respondent as securities broker stands cancelled in terms of Regulation 11(3)(e) of the Regulations. The Respondent is hereby directed to:

- (a) Immediately initiate the process for changing the name and Memorandum of Association of the company or winding up of the company as the case may be.

9. Furthermore, in exercise of the powers conferred under section 12, 31 and 55 of the Act, I hereby directed PSX, Central Depository Company of Pakistan Limited (CDCPL), National Clearing Company of Pakistan Limited (NCCPL) that:

A. PSX shall:

- a. Immediately suspended the TRE Certificate of the Respondent and proceed further for the cancellation of TREC after following the due process under the applicable regulatory framework.
- b. Obtain the latest Certificate of Registration as broker issued by the Commission to the Respondent in original and send the same to the Commission.

B. CDC shall:

- a. Immediately suspended the admission of the Respondent as CDS participant and proceed further for termination of the same after following the due process under the applicable regulatory framework;

C. NCCPL shall:

- a. Immediately suspended the admission of the Respondent as Broker Clearing Member and proceed further for termination of the same after following the due process under the applicable regulatory framework
- b. Immediately close out the outstanding positions of the Respondent, if any and release the excess margins after final determination of loss, if any, under the applicable regulatory framework.

10. This order is issued without prejudice to any other action that the Commission may initiate against the Respondent in accordance with law on matters subsequently investigated or otherwise brought to the knowledge of the Commission.



Adif Saeed
Commissioner (SMD)

Announced on December 13, 2017
Islamabad.