



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Securities Market Division
Licensing and Capital Issue Department

Before the Director/HOD (LCID)

In the matter of Show Cause Notice issued under Section 224(4) of the Companies Ordinance, 1984 to Mr. Bakhtiar Hameed Wain, Director of Avanceon Limited

Order

This Order will dispose of the proceedings initiated under Section 224(4) of the Companies Ordinance, 1984 ("**Ordinance**") by the Securities and Exchange Commission of Pakistan ("**Commission**") through Show Cause Notice No. S.M(B.O)C.O.222/A72(1)14 dated 21/04/2014 ("**Notice**") issued to Mr. Bakhtiar Hameed Wain ("**Respondent**"), Director of Avanceon Limited ("**Issuer Company**").

2. The facts of the matter leading up to aforesaid Notice are that the Issuer Company is a public listed company and the Respondent being its Director was required to file returns of beneficial ownership on Form 31 within the period stipulated under Section 222 of the Ordinance. However, he failed to discharge the said obligation which attracts penal provision contained in Section 224(4) of the Ordinance.

3. Section 222(2)(b) of the Ordinance stipulates the period within which the Form 31 is required to be submitted as under:-

"in any other case, including a case where the company is listed on the stock exchange after the commencement of this Ordinance or after the person has occupied the position or office specified in sub-section (1) or has acquired interest as beneficial owner of securities as aforesaid, within thirty days of occupying the office in the company or acquisition of interest as beneficial owner requiring submission of the return aforesaid or listing of the company on the stock exchange, as the case may be."

4. The Respondent in response to this office letter dated 23/12/2014 filed Form 31 with this Commission on 07/01/2015, which *inter alia* showed that the Issuer Company was formally listed at Karachi Stock Exchange on 11/02/2014. Thus, Respondent was required to file the said return with this Commission within 30 days of the listing of the Issuer Company i.e. latest by 13/03/2014, but the same has been filed on 07/01/2015, with delay of 301 days, in contravention of Section 222(2)(b) of the Ordinance.

5. The aforesaid contravention prima facie attracts penal provision of Section 224(4) of the Ordinance, which provides as under:-

"Whoever knowingly and wilfully contravenes or otherwise fails to comply with any provision of section 222, section 223 or section 224 shall be liable to a fine which may extend to thirty thousand rupees and in the case of a continuing contravention, non-compliance or default to a further fine which may extend to one thousand rupees for every day after the first during which such contravention, non-compliance or default continues."

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6. The Commission took cognizance of the aforesaid default and issued Notice to the Respondent under Section 224(4) of the Ordinance, calling upon him to explain through written reply alongwith documentary evidence, if any as to why action may not be taken against him pursuant to Section 224(4) of the Ordinance, for aforesaid contravention of Section 222 of the Ordinance. Furthermore, personal hearing in the matter was also fixed on 08/05/2015 at Commission's Head Office, Islamabad.

7. Mr. Ahsan Khalil, Company Secretary of the Company responded the Notice on behalf of the Respondent vide letter dated 28/04/2015 and communicated that the matter may be decided by considering the written submissions, which be summarized as under:-

- a) *The Issuer Company got listed at KSE/LSE in February 2014. Meanwhile, the Company Secretary was changed.*
- b) *The Respondent got skipped filing of Form 31 due to handling of various issues and discharging of responsibilities.*
- c) *Filing of returns of beneficial ownership after listing of the Company was inadvertently missed out. The omission was inadvertent and has not been committed willfully.*
- d) *The Respondent assured timely compliance in future and requested to drop the proceedings*

8. Prior to conclude the findings, it seems necessitated to mention that subsequent to receipt of aforementioned reply, the Parliament of Islamic Republic of Pakistan approved new enactment titled as Securities Act 2015 and this act of the Parliament received assent of the President of Pakistan on May 13, 2015. With the promulgation of the Securities Act 2015, Section 220 to 224 of the Ordinance stand omitted/repealed. Since all proceedings were completed prior to promulgation of the Securities Act 2015, therefore, the matter is being disposed of pursuant to omitted provisions of Section 224(4) of the Companies Ordinance, 1984.

9. I have considered the aforesaid submissions made on behalf of the Respondent. The Respondent has stated that he has been working as director of the Issuer Company before its listing at the stock exchange. The Respondent has admitted the default with the contention that the same was not committed willfully and knowingly. I have reviewed the record of this office and observed that the Company was formally listed *inter alia* at Karachi Stock Exchange on 11/02/2014. The Respondent has also filed Form 31 with the concerned Company Registration Office. Furthermore, as per available record, the Respondent has not made any purchase and sale transaction since listing of the Issuer Company. The Respondent, being a Director of a newly

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listed company as well as considering the submissions made by him, I intend to agree with the contention of the Respondent and of the view that late filing of said return may not be willful. Therefore, a lenient view of the matter has been taken and the Respondent is hereby strictly warned to ensure timely compliance of Section 222 of the Ordinance in future.

10. This Order is issued without prejudice to any other action that the Commission/Registrar may initiate against the Respondent in accordance with the law on matter subsequently investigated or brought to the Notice of the Commission.



Islamabad.
Announced on June 17, 2015