



**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

ISLAMABAD, THURSDAY, OCTOBER 1, 2020

Part II

Statutory Notifications (S.R.O.)

Government of Pakistan

Ministry of Finance

Islamabad, the October 1, 2020

NOTIFICATION

S.R.O. 950 (I)/2020.— In exercise of the powers conferred by section 43 of the Anti-Money Laundering Act 2010 (Act VII of 2010) read with clause (h) of sub-section (2) of section 6A and clause (c) of section 6C of that Act, the Federal Government is pleased to make the following Rules, namely:-

1. Short title, application and commencement.— (1) These Rules may be called the AML/CFT Sanctions Rules, 2020.

(2) These rules shall apply to AML/CFT regulatory authorities and Oversight Bodies for SRBs as defined in the Anti-Money Laundering Act 2010 (Act VII of 2010).

(3) These rules shall come into force at once.

2. Definitions.— (1) In these Rules, unless there is anything repugnant in the subject or context,—

(a) “Act” means the Anti-Money Laundering Act, 2010 (VII of 2010);

(b) “AML/CFT Oversight Body Regulations” means any regulations for SRBs issued in accordance with section 6C(a) of the Act;

- (c) “AML/CFT Regulations” means any regulations, directives, directions and guidelines in accordance with sections 6A(2)(c) and 6A(2)(d) of the Act;
- (d) “person” means reporting entity, directors, senior management or officers in similar positions of that reporting entity; and
- (e) “senior management” means Chief Executive Officer, Managing Director, Deputy Managing Director, Chief Operating Officer, Company Secretary, Chief Financial Officer, Chief Compliance Officer, Chief Regulatory Officer and any holder of such positions by whatever name called.

(2) All other words used but not defined in these rules shall have the same meanings as assigned thereto under the Act or any AML/CFT regulations or AML/CFT Oversight Body Regulations.

3. Power to sanction.— (1) Sanctions pursuant to these Rules shall be applied by the respective AML/CFT Regulatory Authority without prejudice to the sanctions in other laws.

(2) Pursuant to the authority to impose sanctions, the AML/CFT regulatory authority shall impose sanction on a person under clause (h) of sub-section (2) of section 6A of the Act for a contravention of the provision of—

- (i) section 7(1),7(3) to 7(6) and 7A to 7H of the Act;
- (ii) AML/CFT Regulations; and
- (iii) Regulations issued by FMU.

(3) Pursuant to clause (c) of section 6C of the Act, the Oversight Body for SRBs shall impose sanction on SRB under these rules for contravention of relevant requirement of the Act or of AML/CFT Oversight Body Regulations.

(4) Any sanction imposed under these Rules pursuant to section 6A(2)(h) and 6C(c) of the Act shall be limited to the reporting entity or SRB or any director, senior management officers and officers in similar positions of such reporting entity.

4. Type of sanctions and penalty amounts.— (1) On any contravention as set out in rule 3(2), any or all of the following sanctions may be imposed by the concerned AML/CFT Regulatory Authority, namely:-

- (a) Impose a monetary penalty in accordance with these Rules;
- (b) impose any condition, limitation or restriction on the reporting entity’s business or product offerings, as it considers appropriate,

- (c) Revoke license or de-registration of the reporting entities as applicable;
- (d) Impose a temporary or permanent prohibition on any natural person who holds an office or position involving responsibility for taking decisions about the management of the reporting entity, including but not limited to:
 - (i) issuing a written warning;
 - (ii) imposing a temporary suspension; or
 - (iii) removal from service.
- (e) Issue a statement of censure/warning/reprimand;
- (f) Issue a direction to the person to undertake any given actions, including but not limited to:
 - (i) comply with the requirements within a specified time period through a remedial plan;
 - (ii) conduct internal inquiries; or
 - (iii) take disciplinary action against directors, senior management and other officers.
- (g) Impose any other sanction permitted under the AML/CFT Regulatory Authority's enabling legislation and any rules, regulations or directives issued thereunder.

(2) The AML/CFT regulatory authority may not impose a sanction on a person if the authority is satisfied that the reporting entity took all reasonable steps and exercised all due diligence to ensure that the requirement would be complied with.

(3) When determining the sanction to be imposed as set out in subsection (1), and any penalty to be imposed on a person, the AML/CFT Regulatory Authority shall take into account all relevant circumstances, including where appropriate:

- (i) the gravity and the duration of the contravention or failure;
- (ii) The type of sanction and penalty amount necessary to constitute a dissuasive, proportionate and effective sanction in respect of the contravention;
- (iii) the person's history of compliance with the Act and any regulations made thereunder, including:
 - (a) any potential systemic consequences of the contravention; or
 - (b) previous contraventions by the person
- (iv) the financial strength of the Reporting Entity;
- (v) the amount of profits gained or losses avoided by the person;
- (vi) remedial measures taken by the person to address the cause of the contravention;

- (vii) the extent to which the contravention was negligent or willful; or
- (viii) any other factor deemed appropriate by the AML/CFT Regulatory Authority.

5. Oversight body for SRBs.— (1) The Oversight Body for SRBs may impose any or all of the following sanctions in respect of a contravention provided in sub-rule (3) of rule 3:

- (i) issuance of censure/warning/reprimand in writing;
- (ii) imposition of monetary penalty, which may not exceed Rs.100 million, in accordance with the risk-based penalty scale by the respective Oversight Body for SRB; and
- (iii) any other sanction or administrative requirement as deemed appropriate by the Oversight Body for SRBs.

(2) The Oversight Body for SRBs may not impose a penalty on an SRB if the authority is satisfied that the SRB took all reasonable steps and exercised all due diligence to ensure that the requirement would be complied with.

(3) When determining the sanction and penalty amount to be imposed on an SRB, the Oversight Body for SRBs shall take into account all relevant circumstances, including where appropriate:

- (i) the gravity and the duration of the contravention or failure;
- (ii) consequences or impact of the contravention;
- (iii) previous contraventions;
- (iv) the remedial measures taken by the SRB to address the cause of the contravention;
- (v) the extent to which the contravention was negligent or willful; or
- (vi) any other factor as deemed appropriate by the Oversight Body for SRBs.

(4) The Oversight Body for SRBs may recommend to the Federal Government that an SRB be removed as an AML/CFT Regulatory Authority in case of a contravention of any of the relevant provisions of the AML/CFT Oversight Body Regulations, if the Oversight Body for SRBs deems that the contravention is of such severity as to warrant the removal of the SRB as an AML/CFT Regulatory Authority.

6. Penalty amounts.— (1) The AML/CFT Regulatory Authority shall apply monetary penalties upto Rs. 100 Million per violation, in accordance with the risk-based penalty scale of the respective AML/CFT Regulatory Authority.

(2) Where a monetary penalty has been imposed and if the person does not pay the monetary penalty or does not appeal against the penalty in accordance with these Rules, the AML/CFT Regulatory Authority or Oversight Body for SRBs may impose further sanctions;

(3) The AML/CFT Regulatory Authority or Oversight Body for SRBs may follow their existing process, if any, or prescribe the process for recovery of penalties under the applicable law.

(4) On a quarterly basis, the AML/CFT Regulatory Authority or the Oversight Body for SRBs shall make public the significant sanctions imposed under these Rules which shall include the sanction imposed, the nature of the violation, name of the relevant Reporting Entity or SRB and/or any other person as the case may be.

7. Notice in Writing (1) When an AML/CFT Regulatory Authority or Oversight Body for SRBs imposes a sanction it shall issue a notice in writing to the person or SRB in question stating at least:

- (a) the sanctions that it proposes to impose along with the violations giving rise to such sanctions; and
- (b) the right of the person to appeal the sanctions imposed and the process by which an appeal may be filed;

8. Appeal Process.— (1) The person or SRB in respect of whom a sanction has been imposed shall have the right to file an appeal against the imposition of such sanction.

(2) Each AML/CFT Regulatory Authority or Oversight Body for SRBs shall designate in writing any person or persons who shall act as the appellate body for any appeal filed under this rule, while designating the appellate body, it shall be ensured that such person or persons has not participated in the decision to impose the original sanction and holds a senior level position within the AML / CFT Regulatory Authority or Oversight Body.

(3) The respective AML/CFT Regulatory authority or the Oversight Body for SRBs shall formulate and make public Standard Operating Procedure for processing of appeals for its reporting entities which must cover:

- (a) the process to be followed for filing of an appeal;
- (b) competent authority before whom an appeal is to be filed;
- (c) number of days allowed to lodge appeal after imposition of sanction; and

(d) maximum time to be taken by the competent authority of the AML / CFT Regulatory Authority or Oversight Body for SRB to issue its decision with respect of the appeal, which shall not exceed 180 days.

-Sd-
Deputy Secretary (AML)
Ministry of Finance