



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

No. SCD/Adjudication/SPLC/29A/2019/440

October 11, 2024

Saudi Pak Leasing Company Limited
6th Floor, Lakson Square Building No.1
Sarwar Shaheed Road
Karachi.

**Subject: ORDER IN THE MATTER OF SHOW CAUSE NOTICE DATED JULY 21, 2023
UNDER SECTION 301(k) READ WITH SECTION 304(b) OF THE COMPANIES
ACT, 2017**

Dear Sir,

Please find enclosed order in the subject matter for your record and necessary action.

Regards,

Rizwan Ul Haq
Additional Joint Director

Enclosed: As above



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Before

Shahzad Afzal Khan, Director/ Head of Department

In the matter of

Saudi Pak Leasing Company Limited

Number and date of show cause notice: SCD/Adjudication/SPLC/29A/2019/3391 dated July 21, 2023

Date of hearings: April 04, 2024 and April 25, 2024

Hearing attended by: Syed Najmul Hasnain Kazmi - Chairman;
Mr. Niaz Ahmed Khan - CEO;
Mr. Muhammad Zahoor - CFO; and
Mr. Muhammad Imtiaz Ali - Company Secretary

ORDER

UNDER SECTION 301(K) READ WITH SECTION 304(B) OF THE COMPANIES ACT 2017

This Order shall dispose of proceedings initiated by the Securities and Exchange Commission of Pakistan (the Commission) in the matter of Show Cause Notice dated July 21, 2023 (the SCN) under section 301(k) read with section 304(b) of the Companies Act, 2017 (the Act) issued to Saudi Pak Leasing Company Limited (the Company).

2. The facts leading to this case, briefly stated are that:
 - i. the Company is a public limited company incorporated in Pakistan on January 08, 1991 under the name and style of Standard Chartered Mercantile Leasing Company Limited. Subsequently a Certificate of Incorporation on change of name was issued on October 08, 1997 into the name of Company. The Company was licensed by the Commission to carry out Leasing business as a Non-Banking Finance Company (NBFC) under the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2003 (the NBFC Rules) and Non-Banking Finance Companies and Notified Entities Regulations, 2008 (the NBFC Regulations). The Company is also listed on Pakistan Stock Exchange (PSX).
 - ii. the license issued pursuant to the NBFC Rules was valid for a period of three years and thereafter it was required to be renewed by the Commission. Accordingly, the license of the Company expired on May 18, 2010. The Company remained non-compliant with the prescribed minimum equity requirement (MER) as provided under rule 7(3) of the NBFC Rules and regulation 4 of the NBFC Regulations since September 2010. The prevailing MER was Rs. 200 million, however, in November 2015, the Commission revised the MER for deposit-taking NBFCs to Rs. 500 million. The Company being a deposit-taking NBFC failed to comply with the revised MER requirements.
 - iii. The Commission, while taking cognizance of the default, initiated enforcement action against the Company through a show cause notice dated May 18, 2020 which was concluded through an Order dated September 28, 2020, laying time bound stipulations, requiring their fulfilment by December 31, 2020. The Company filed a



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- review application against the aforesaid order and despite low MER, the application was favorably reviewed affording the Company ample time period to confirm with the requirements of the law *vis a vis* maintain adequate level of MER. It was explicitly conveyed that in the event of failure to meet the MER by June 30, 2021, the license to undertake leasing business would stand revoked and the Commission would initiate winding up proceedings against the Company.
- iv. The Company failed to fulfill the conditions of aforesaid order within aforementioned given timeline and vide letter dated December 22, 2021 requested the Commission for an extension in timeline till June 20, 2022. The Commission vide letter dated December 31, 2021 acceded to the request of the Company and granted further extension to meet the conditions of the law; not limited to MER.
 - v. The Commission vide letter dated May 12, 2023, categorically conveyed the Company that its license to undertake leasing business stood cancelled, under section 282J(2) of the Companies Ordinance, 1984 (the Ordinance). Thus, the Company is no more licensed NBFC under the NBFC Rules and the NBFC Regulations.
 - vi. the Additional Registrar of Companies, Company Registration Office (CRO), Karachi approached the Commission for grant of sanction in terms of section 301(k) of the Act read with section 304(b) thereof to present a petition before the Honorable High Court for winding up of the Company on the grounds that the sole business of the Company is the licensed activity and it ceases to operate consequent upon revocation of the license to undertake business as NBFC.
3. In view of the aforesaid, SCN was served upon the Respondents to show cause as to sanction may not be granted to the Additional Registrar of Companies, CRO Karachi to present the petition for winding up of the Company, before the Honorable High Court.
4. In reply to the SCN, the Company vide letters dated October 24, 2023, November 23, 2023, December 06, 2023, February 01, 2024 while explaining the efforts undertaken by the management in settlement of outstanding liabilities, recoveries against leases and term loans and resultant increase in cash/ bank balances, profit & loss, equity, etc., *inter-alia* stated that:
- i. Trying to wash off negative equity and are positive to achieve it. If we succeed to settle claims of Depositor/Creditors and TFC Holders (even in near future we remain unable to settle) our Assets will cover the liabilities and we will not be confronted with negative activity, therefore the SCN may be deferred and grace period may be allowed to settle these issues by June 30, 24 to meet MER for Non-Deposit Taking entity.
 - ii. Currently negotiating with TFC Holders and two banks and, if materialized, it will do away negative equity and facilitate achieving the MER requirement.
 - iii. Actively pursuing Banking Courts & High Courts for execution of decreed cases by auctioning of the collaterals lying with SPLC for the sake of rapid recoveries so that further funds could be generated to settle remaining liabilities.
 - iv. Any move towards Winding up will deprive the rights of shareholders (more than



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1800) as well as the major shareholder SAPCIO (The joint venture of Government of Pakistan and Kingdom of Saudi Arabia) reputation will be severely affected.

- v. We also aim to change our Company's name and line of business by amending its Memorandum & Article of Association, which was presented in last AGM but could not be tabled due to certain rowdy behaviour of few shareholders and the same will be placed before the shareholders soon.

5. In order to provide opportunity of personal representation, hearing in the matter was fixed for April 04, 2024, which was adjourned on the request of the Company. Thereafter, the Company vide letter dated April 18, 2024, while sharing the improvement in financial health of the Company during the period from July 2023 till March 2024, *inter-alia*, requested to grant sufficient extension to fulfill MER and to avoid liquidation of the Company since the Company License for leasing business has already been cancelled due to MER requirement and informed that it has progressed towards change of business line of the Company from Financial activities to non-financial and beneficial activities.

6. Later hearing in the matter was scheduled for April 25, 2024 wherein Syed Najmul Hasnain Kazmi - Chairman, Mr. Niaz Ahmed Khan - CEO, Mr. Muhammad Zahoor - CFO and Mr. Muhammad Imtiaz Ali - Company Secretary appeared on behalf of the Respondent as its Authorized Representative (**Representatives**) and *inter-alia* stated that the members of the Company have approved the change in business line in EOGM held on April 24, 2024 and minutes of the said meeting will be provided within fifteen days. Further the amended memorandum and articles of association of the Company will also be submitted.

7. Subsequently the CEO of the Respondent vide letter dated May 06, 2024 *inter-alia* stated that:

"In light of the prevailing economic conditions characterized by a high policy rate and the delicate landscape within deposit-taking leasing companies and non-bank financial institutions (NBFI), Our Board of Directors approved the changes in Company's business line. This decision was duly presented to our shareholders for their approval on April 24, 2024, in Extraordinary General Meeting (EOGM) convened at Islamabad, to address two pivotal matters:

- 1. Amendment of the Company's object clause-III in the Memorandum of Association, transitioning from its leasing business to consultancy services.*
- 2. Change of the Company's name from Saudi Pak Leasing Company Limited to Saudi Pak Consultancy Company Limited.*

I am pleased to inform you that both resolutions were unanimously approved by our esteemed shareholders, after obtaining legal advice that there will be no adverse effects in recoveries & its repayments. All relevant documentation, including the minutes of the EOGM, has been diligently prepared and officially recorded.

Subsequently, we have initiated the necessary legal and statutory procedures in accordance with the provisions stipulated in the Companies Act 2017. We have submitted the following



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requisite application forms to the office of the Company Registration Office (CRO) in Karachi:

- i. APP-01-Application for the reservation of the proposed Company name.
- ii. Form-26 - Special Resolution.

With the approval of shareholders for change of line of business and name of Company in the EOGM, we understand that SPLC is no more an NBFII and their shall be no need of license from SECP, after its approval of proposed changes by SECP.

Given the positive developments and tangible progress achieved, backed by verifiable evidence, we request the revocation of Show Cause Notice dated July 21, 2023, pertaining to the winding up of the Company. We believe that such a decision would be in the best interest of the Company, its shareholders and depositors."

8. Later the Company Secretary, vide letter dated May 22, 2024 submitted that the Respondent has filed all the required documents and form with requisite fees, etc., with SECP in respect of change of name of Company and intimation about principle line of business and while submitting copy of the same as evidence, requested the withdrawal of the SCN to facilitate them to effectively materialize the change in Company's existing scenario with the permission of the Commission.

9. The relevant provisions of the Act are reproduced below:

"301. Circumstances in which a company may be wound up by Court. -A company may be wound up by the Court-

(k) if the sole business of the company is the licensed activity and it ceases to operate consequent upon revocation of a license granted by the Commission or any other licensing authority;

304. Provisions as to applications for winding up. - An application to the Court for the winding up of a company shall be by petition presented, subject to the provisions of this section, either by the company, or by any creditor or creditors (including any contingent or prospective creditor or creditors), or by any contributory or contributories, or by all or any of the aforesaid parties, together or separately or by the registrar, or by the Commission or by a person authorized by the Commission in that behalf:

Provided that-

.....

(b) the registrar shall not be entitled to present a petition for the winding up of a company unless the previous sanction of the Commission has been obtained to the presentation of the petition:

Provided that no such sanction shall be given unless the company has first been afforded an opportunity of making a representation and of being heard."

10. I have considered the facts of the case in light of the applicable provisions of law and have given due consideration to the verbal as well as written submissions and arguments of the Respondent and its Representatives. At this juncture, it is imperative to discuss the following:



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- (i) **Whether section 301(k) of the Act applicable when the Company has changed its form of business from licensed activity to non-licensed activity:**
No, section 301(k) of the Act deals with the requirements relating to winding up of licensed entities. In the instant scenario, the Company has opted to change its business to undertake leasing i.e. licensed for of business to consultancy business i.e. unlicensed activity, hence section 301(k) is no more applicable.
- (ii) **Impact of change in object clause of Memorandum of Association of the Company:**
The change in object clause under Memorandum of Association (MoA) of the Company will exit the Company from the NBFC sector and it will no longer to undertake leasing business being a licensed form of business. With this shift from licensed form of business to unlicensed business, the Company will not be required to comply with specific provisions of applicable laws relating to NBFCs including compliance with MER.
- (iii) **Is licensed activity sole business of the Company pursuant to change in object clause of the MoA:**
No, pursuant to change in the object clause of MoA, the Company is no more undertaking any licensed form of business and will be providing consultancy services – an unlicensed form of business.
- (iv) **Approach of the Management of the Company towards its future prospects:**
The management of the company is committed to proactively navigating its future prospects with a strategic and adaptive approach. The Respondents believe that the change in business line of the Company from leasing to consultancy services will open new avenues and lead the Company towards profitable operations.
- (v) **Impact of Winding up on the shareholders:**
The impact of winding up on the shareholders of the company is multifaceted and profound, as it fundamentally alters their rights and financial standing and imposes financial, emotional, and reputational consequences on shareholders, altering their investment landscape and diminishing their overall confidence in the company and its future prospects.

11. It is also relevant to highlight that in case of winding up proceedings of Khalid Siraj Textile Mills Limited, the honorable Supreme Court of Pakistan in the matter of Civil Petition No. 835 of 2022, *inter alia*, stated that:

"In this regard, we note that the SECP must protect the interests of the shareholders of the company and more so where the SECP seeks winding up of a company, at its own instance. It must consider all relevant facts and record and if there is a chance of avoiding winding up then it should consider that option rather than push for winding up. It is in the public interest that businesses are encouraged. So the commercial operations of a business must be preserved and protected such that it is liable to revive itself when faced with financial hardships. The SECP, in this regard, should make all efforts to ensure that companies are



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able to run their business and can improve their commercial viability especially when there is a financial crunch.

Winding up a business has serious consequences both economic and social and even though this is a matter for the discretion of the judge, winding up should be ordered with extreme caution, as a last resort, when it is evident that the business cannot be saved."

12. Keeping in view the aforesaid and considering that winding up has serious consequences, and the Respondents and Representative at any stage during the course of instant proceedings, have not showed intent to wind-up the Company, rather placed reliance on alternate plan to convert the Company from NBFC sector company to an ordinary listed company with a change in scope of business from leasing to consultancy services. The Representatives emphasized that the Company is currently operating profitably hence the shareholders, in EOGM held on April 24, 2024, have approved the change in business line of the Company from leasing to consultancy services and also approved the name of the Company to Saudi-Pak Consultancy Company Limited and the documents and forms along with prescribed fees has also been submitted with the CRO Karachi to effectuate the change in name and principle line of business of the Company. I, therefore, am of the view that winding up of the Company will not serve the purpose and could be detrimental to the interest of the shareholders thus should be ordered in extreme conditions and as a last resort.

13. In view thereof, I, find no reason to continue the winding up proceedings initiated against the Company through the SCN and hereby drop the same with no further action. The Respondent is advised to ensure that the decision of the shareholders taken in EOGM dated April 24, 2024 for converting the business line of the Company from lending NBFC to Consultancy services be followed in true letter and spirit.

14. Nothing in this Order may be deemed to prejudice the operation of any provision of the Act providing for imposition of penalties on the Respondents of the Company in respect of any default, omission, violation of the Act.

(Shahzad Afzal Khan)
Director/ HOD
Adjudication Department-I

Announced:
Dated: October 10, 2024
Islamabad