



Securities and Exchange Commission of Pakistan
Specialized Companies Division

SCD-SD (Enf.)/KHI/UBLFM/2014/043

February 21, 2014

BEFORE THE EXECUTIVE DIRECTOR

IN THE MATTER OF UBL FUND MANAGERS LIMITED (UBLFM)

In Respect of Show Cause Notice under Section 282J (1) read with Section, 282D and Section 282M of the Companies Ordinance, 1984 for Violation of Regulation 38 (n) of the Non-Banking Finance Companies & Notified Entities Regulations 2008

No. and date of Show Cause Notice (SCN)	No.SCD-SD(Enf)/UBLFM/2013/258 dated December 06, 2013
Date of 1 st Hearing:	December 30, 2013
In Attendance:	<ol style="list-style-type: none">1. Mr. Muhammad Ali – Chief Executive Officer - CEO (in personal capacity and on behalf of the Company)2. Mr. Hasnain Raza Nensey – Chief Financial Officer/ Chief Operating Officer3. Mr. Syed Ali Turab Alvi – Head of Risk Management, Business & Product Development4. S. M. Aly Osman – Head of Internal Audit & Compliance (Authorized Representative)
Date of 2 nd Hearing:	January 20, 2014
In Attendance:	<ol style="list-style-type: none">1. Mr. Muhammad Ali – Chief Executive Officer (in personal capacity and on behalf of the Company)2. Mr. Hasnain Raza Nensey – Chief Financial Officer/ Chief Operating Officer3. Mr. Syed Ali Turab Alvi – Head of Risk Management, Business & Product Development



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ORDER

1. This order shall dispose of the proceedings initiated against M/s. UBL Fund Managers Limited (hereinafter referred as the "**Company**" or "**UBLFM**" and its officers through a Show Cause Notice ("**SCN**") dated Dec 06, 2013 issued under Section 282J (1) read with Section 282D and Section 282M of the Companies Ordinance, 1984 (the "**Ordinance**") for violation of Regulation 38(n) of the Non-Banking Finance Companies & Notified Entities Regulations 2008 (the "**NBFC Regulations**").
2. The SCN was issued to the Company and its officers hereinafter collectively referred as the "**Respondents**" against the complaint received from one of the investors of the UBL Government Securities Fund – "**UGSF**" or the "**Fund**" that the Company unilaterally discontinued the Regular Profit Option mentioned in the constitutive documents of the Fund. Whereas, the Para 6.2 of the Offering Document of UGSF requires prior approval by the Trustee and the Commission and intimation to the Unit-holders. Therefore, this act of the Company was in violation of the constitutive documents and Regulation 38(n) of the NBFC Regulations, which requires UBLFM to manage the funds/CISs according to their constitutive documents and prevailing regulatory framework.
3. The Company vide letter dated September 12, 2013 addressed to all the unit holders of UGSF (who opted the Regular Profit Option) informed that the Regular Profit Option offered under UGSF has been discontinued and the enclosed profit payment will be the last one offered under this scheme. Further, the unit holders were also advised if they would like to continue receiving Regular Profit (as earlier offered by UGSF), they may convert their investments from UGSF to other UBLFM Funds with applicable deductions such as the Capital Gain Tax.



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4. In response to the SCN initiated, the CEO of UBLFM vide letter dated December 20, 2013 contended that;

- i. They had no intention to contravene any provisions of the Ordinance, Law, Rules and Regulations and they will continue to abide by the regulatory framework in both letter and spirit. Since its inception, UBLFM has placed unit-holders' interests at first place. The same may be witnessed with their handling of the WWF matter, where UBLFM took on a huge contingent liability of Rs. 304 million on its own books, instead of charging it to the investors in normal course like all other AMCs have done.
- ii. As per their understanding the monthly profits being paid under UGSF did not fall under the "Systematic Withdrawal Plan" (SWP) and were covered under the generic operational facility comprising of periodic redemptions for payment of profits i.e. "Regular Profit Option" was simply an operational facility and is excluded from the scope of SWP thus no approval was required from the Trustee and SECP to discontinue the said operational facility.
- iii. The profit disbursement facility is assumed to be covered under SWP scope, the Offering Document requires SECP approval in case of changes in terms /conditions and not for initiation /discontinuation of SWP. There was NO anticipated change or amendment in the terms and condition of SWP in clauses (a) to (g) of Para 6.2.5 of the Offering Document of UGSF due to discontinuation of SWP.
- iv. UBLFM acted in the investors' best interest by trying to protect them from volatility in monthly profits and offering them



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alternative options with ample time to convert. Investors who chose to stay in UGSF without Regular Profit Option and those who switched to our recommended funds, both enjoyed healthy profits and no investor had to take a loss.

- v. They requested SECP to condone the discontinuation of "Regular Profit Option". As the Respondents have no material benefits to gain from this decision other than the loyalty of investors and they agreed to the point that SECP's permission should have been taken earlier.
 - vi. UBLFM is ready to reverse its earlier decision to discontinue the Regular Profit Option on UGSF and allow all investors who have redeemed their investments from UGSF (as a result) including the Complainant in question to reinstate their investments in UGSF at no extra cost to the investors/unit holders (100% load waived i.e. 1% front end fee of the investment value) along with option of regular profit payments from here onwards to all such investors.
5. During the course of deliberations in the Hearings, the Respondents argued that;
- i. Initially UGSF was generating annualized returns around 12% to 13% per annum. However, after the discount rates were enhanced by the State Bank of Pakistan, the returns of the fund became volatile and so as the regular monthly profits to the investors also varied accordingly. In order to provide better opportunity and regular profits, the investors were advised to convert their investment to other funds of UBLFM which has the same features of Regular Profit Options and was providing better returns as compared to UGSF. Therefore, the investors at the same time were informed about the discontinuation of Regular Profit Option in UGSF.



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- ii. UBLFM acted in the best interest of the unit holders while advising them for conversion of funds from UGSF to others. For each client, risk profiling is performed at initial level and an appropriate fund is recommended for investments. The Complainant and other investors of UGSF that opted for Regular Profit Option were advised funds, keeping in view of their requirement of monthly profit payments. In Respondents' view, the Trustee and the Commissions' approval is required only in the case of changes in terms and conditions mentioned at (Para 6.2.5 – Clause a.to g.) of SWP and not in the case if SWP was simply being initiated / discontinued.
 - iii. The Respondents after deliberations during the hearing agreed that the letter sent to investors of UGSF regarding discontinuation of Regular Profit Option was not in line with the parameters prescribed in the Offering document of the Fund. However, they clarified that their intention was not to disrespect the Trustee or the Commission and the Investors. All was done in good faith and to protect the investors from volatile returns and varying monthly profit payments.
 - iv. Further, they committed to reverse their earlier decision of discontinuation of the Regular Profit Option in UGSF to all the investors who initially opted for Regular Profit Option in UGSF including the Complainant and they would also try to resolve the dispute with Complainant to his satisfaction.
6. The CEO of UBLFM vide his letter dated January 07, 2014 apprised that amicable resolution has been reached with the Complainant to his satisfaction and furnished also a copy of document from the complainant stating no further grievance/ complaint against UBLFM.



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7. During the course of 2nd hearing, the Respondents stated that the matter relating to the SCN has been amicably resolved with the Complainant to his satisfaction. The Respondents also requested to condone the step of discontinuation of Regular Profit Option without prior approval from the Trustee and the Commission and prior intimation to the unit holders. Further, they also emphasized that the intention behind discontinuation of Regular Profit Option was made in good faith and in the best interest of the unit holders. They further contended that the Respondents have not earned any benefit from this decision and the investors who understood the good intent behind the decision, opted for conversion and has earned better returns as compared to UGSF. The Respondents requested a lenient view in the matter of SCN.
8. I have considered the explanations given by the Respondents during the course of hearings and their written submissions, in light of the relevant provisions of the Ordinance, the NBFC Regulations and Constitutive Documents of the Fund. I have also reviewed the record placed before me and have come to the conclusion that the UBLFM should have obtained the prior approval of the Trustee & the Commission before discontinuation of the Regular Profit Option in UGSF and the exiting unit holders should have been intimated prior to discontinuation of the Regular Profit Option.

The Respondents must adhere to the responsibilities prescribed in the constitutive documents of the funds and prevailing regulatory framework requiring the Respondents to obtain approval from the Trustee & the Commission.

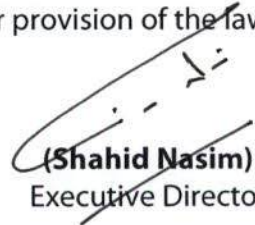
Para 6.2 of the Offering Document stipulates that; *"The Management Company may introduce changes in systematic withdrawal plan, systematic investment plan*



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or systematic conversion plan from time to time, through amendment to this Offering Document, subject to prior approval by the Trustee and the Commission and intimation to the Unit-holders. However, any changes introduced in systematic withdrawal plan, systematic investment plan or systematic conversion plan, would not be binding on existing unit holders”.

9. The Respondents neither obtained the approval of the Trustee nor from the Commission to bring the change in the Systematic Withdrawal Plan (i.e. discontinuation of Regular Profit Option). Further, UBLFM unilaterally discontinued the Option and the same was also made applicable to the existing unit holders without their consent.
10. After careful consideration of the facts, admitted default by the Respondents and their honest submissions and amicable settlement with the Complainant to his satisfaction. I am hereby inclined to take a lenient view; resultantly no penalty is imposed on the Respondents in pursuance of the subject show cause notice. However, the Respondents are directed to reverse the discontinuation and allow the investors to continue with Regular Profit Option (if they desire to do so) and the Respondents are strictly warned to be cautious in future and to ensure all the requirements given under the constitutive documents and the prevailing regulatory framework are followed with dedication in letter and spirit and in the best interest of the unit holders.
11. This order is issued without prejudice to any action, which may be taken or warranted for the above said defaults under any other provision of the law.


(Shahid Nasim)
Executive Director

Announced: 21st February, 2014 at Karachi