



Securities and Exchange Commission of Pakistan  
Securities Market Division  
Market Supervision and Registration Department  
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Before the Director/HOD (MSRD)

in the matter of Show Cause Notice issued to National Refinery Limited (NRL) and others

*Date of Hearing:*

*May 07, 2013*

*Present at Hearing:*

*Representing the Respondents:*

- (i) *Mr. Mohammad Irfan Amanullah* *Representing the National Refinery Limited & the Chief Executive of NRL*
- (ii) *Nouman Ahmed Usmani* *Company Secretary, NRL*

*Representing the Karachi Stock Exchange Limited (KSE):*

- (i) *Mr. Muhammad Ghufraan* *Deputy General Manager, KSE*

*Assisting the Director/HOD (MSRD):*

- (i) *Mr. Osman Syed* *Deputy Director, SECP*

**ORDER**

1. This Order shall dispose of the proceedings initiated through Show Cause Notice (**the "SCN"**) bearing No.1 (15) NRL/MSW/SMD/2013 - 001 dated April 23, 2013 issued to (i) National Refinery Limited, (ii) Chief Executive Officer of NRL and (iii) Company Secretary of NRL (**the "Respondents"**) by the Securities and Exchange Commission of Pakistan (**the "Commission"**) under Section 22 of the Securities and Exchange Ordinance, 1969 (**the "Ordinance"**).
2. On April 16, 2013, the meeting of the Board of Directors (**the "BOD"**) of the National Refinery Limited (**the "Company"**) was held to consider the financial results for the 3<sup>rd</sup> Quarter ended March 31, 2013 and subsequently at 12:27 pm on the same day the Company vide its letter no 6.1/0413 conveyed the financial results of the Company to the Karachi Stock Exchange Limited (**"KSE"**) for the period ended March 31, 2013. However, on the same day



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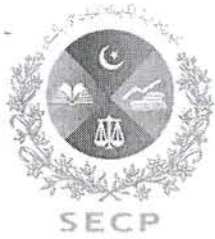
at 3:46 pm, the Company conveyed the revised financial results for the aforesaid period vide its letter no 6.1A/0413.

3. On review of the details, the major difference in the earning and profitability was observed in the aforementioned announcements of the Company. The details of the same are as under:

<i>Particulars</i>	<i>Announcement vide Notice no 6.1/0413 at 12:27 pm (Rupees in Thousands)</i>	<i>Revised Announcement vide Notice no 6.1A/0413 at 3:46 pm (Rupees in Thousands)</i>
<i>Other Operating Income</i>	<i>1,703,976</i>	<i>703,976</i>
<i>Finance Cost</i>	<i>(682,332)</i>	<i>(233,012)</i>
<i>Operating Profit</i>	<i>1,872,325</i>	<i>872,325</i>
<i>Profit before taxation</i>	<i>1,189,993</i>	<i>639,313</i>
<i>Profit after taxation (PAT)</i>	<i>919,676</i>	<i>368,996</i>
<i>Earning per Share – Basic and diluted (Rupees)</i>	<i>11.50</i>	<i>4.61</i>

4. The non-disclosure of material information, which in the instant case was (i) EPS of Rs. 4.61 (announced as Rs 11.50 in 1<sup>st</sup> announcement) and (ii) PAT of Rs.368.996 million (announced as Rs. 919.676 million in 1<sup>st</sup> announcement), did not fulfill the requirements of the Listing Regulations of the KSE (the “Listing Regulations”) as the Company has failed to disseminate the aforesaid material information in the timely manner as envisaged in the law. The information/facts regarding the actual results were disseminated to KSE on April 16, 2013 at 3:46 pm, about 199 minutes after the previous announcement, wherein, incorrect financial results of the Company were disseminated. The information regarding the facts i.e. (i) EPS of Rs. 4.61 (announced as Rs 11.50 in 1<sup>st</sup> announcement) and (ii) PAT of Rs. 368.996 million (announced as Rs. 919.676 million in 1<sup>st</sup> announcement), was extremely price sensitive and resulted in volatility in the Company’s share price.
5. KSE vide its letter no KSE/C-187-1947 dated April 16, 2013 has also raised its concerns over the revised announcement as mentioned above. The Company vide letter no 10/0413 dated





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April 18, 2013 submitted that there were no malafide intentions on the part of management of the company and it was purely a human error.

6. From the aforementioned it was observed that the Company has failed to disclose the requisite price-sensitive material information as envisaged in the Clause 35(xx) of the Listing Regulations, since same was not disseminated to the Commission and the Stock Exchanges beforehand as required. Moreover, the facts stated above represent that the Company has also failed to comply with the provisions of Regulation 16(1) of the Listing Regulations of KSE and the requirements stated in the Correspondence Manual of KSE, made pursuant to the Listing Regulations by not disseminating the price sensitive information immediately in the manner notified by the Exchange.
7. Accordingly, in view of above, the SCN dated April 23, 2013 was issued to the Respondents under Section 22 of the Ordinance stating that Respondents have prima facie contravened the provisions of Regulations 16(1) and 35(xx) of the Listing Regulations and the requirements stated in the Correspondence Manual of KSE, made pursuant to the Listing Regulations. The Respondents through the SCN was asked to explain their position through written reply within ten days of issuance of the SCN and appear on May 07, 2013 for a hearing.
8. In reply to SCN, the Respondents through their letter dated April 30, 2013 submitted the reply. The relevant extracts of submissions are as follows:

*"... .. it is submitted that the Company, as acknowledged in paragraphs 1 and 2 of the SCN, did disclose material information to the Karachi Stock Exchange (KSE) immediately and in a manner prescribed by the Karachi Stock Exchange Limited Listing Regulations (the 'Listing Regulations'). The meeting of the Board of Directors of the Company was held on 16<sup>th</sup> April 2013 at P.O.L House, Morgah, Rawalpindi from 11.30am until 12.15pm. The financial results considered and approved at the said meeting were admittedly communicated to the Karachi Stock Exchange (KSE) by fax (Letter No 6.110413 - attached herewith) around 12:27pm ("First Announcement") i.e. within twelve (12) minutes of the conclusion of the*



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*aforementioned board meeting. It is respectfully submitted that the discrepancies in the First Announcement were occurred due to miscalculation. This fact stands established from the review of financial results of nine months ended on 31st March 2013 which were correctly reported in the First Announcement. The good faith of the Company is also apparent from the fact that a revised announcement was issued to KSE at 3.46pm vide letter dated 6.1A/0413 (the 'Second Announcement') on the same day, immediately upon discovery of the discrepancies contained in the First Announcement.*

... ..

*It is submitted that the First Announcement did not create any volatility in the share price of the Company as alleged. The shares of the Company were trading at Rs. 224 per share (approximately) immediately before the First Announcement and closed at Rs.220.58 on the same day. It may be noted that even after the Second Announcement the shares of the Company continued to trade on 17<sup>th</sup> April 2013 between Rs.216 to Rs. 220 per share. Interestingly the closing rate for 17<sup>th</sup> April 2013 was also Rs.220.04 per share very similar to the one prevailing on 16<sup>th</sup> April 2013 (after the First Announcement but prior to the Second Announcement). The volume of 337,200 shares traded on 16<sup>th</sup> April 2013 is also not unprecedented. The Company has experienced volumes in excess of those traded on the said date even prior to the First Announcement. For instance the volume traded on 4<sup>th</sup> April 2013 and 5<sup>th</sup> April 2013 were 687,600 shares and 360,600 shares respectively. It is therefore submitted that no extra ordinary volatility was experienced in the stock market due to the First Announcement, Moreover, the Company has not received a single complaint from any of its shareholders in relation to First Announcement.*

... ..

*It may be mentioned that the reporting of quarterly financial results falls under Regulation 16 and 17 of the Listing Regulations.*





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... ..

*It is submitted that the Company disclosed the requisite price sensitive information i.e. the quarterly results in accordance with the Listing Regulations. It may be noted that the reporting of quarterly and annual financial results is specifically covered under Regulation 17 of the Listing Regulations which requires the Company to disclose the same to the KSE (only) "in the manner notified by the Exchange from time to time". In this regards KSE has issued a Correspondence Manual (available on the KSE website). The Index to the Correspondence Manual clearly provides that Form 7 is applicable for disclosure official results for the quarter as opposed to Form 25 relied upon in paragraph 7 of the SCN. It is submitted that the First Announcement was issued by the Company only to the KSE in the format provided in Form 7 in accordance with the Regulation 17 of the Listing Regulations (copy of the First Announcement is annexed herewith as Annexure A). Regulation 35(xxiii) of the Listing Regulations deals with material information relating to business and other affairs of the listed company and is not relevant for the purposes of disclosure of quarterly results. Even KSE in its letter dated 16<sup>th</sup> April 2013 has placed reliance on Regulation 16 of the Listing Regulations and not on Regulation 35(xxiii).*

... ..

*It is submitted with respect that the price sensitive information was notified to the KSE in accordance with the Regulation 16(1) within twelve minutes of the close of directors meeting and prior to its release to any other person or print / electronic media. It is admitted that the First Announcement contained certain errors which were purely inadvertent and clerical in nature. It may be appreciated that the errors were rectified by the Company voluntarily, without any prior intimation of the same by the KSE or the Securities and Exchange Commission of Pakistan (the "SECP").*

... ..



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*It is submitted with respect that the Company has not contravened any provision of the Listing Regulations and as such the penalty prescribed in Section 22 is not attracted to the facts and circumstances of this case. It is however admitted that the First Announcement contained discrepancies which were inadvertently caused due to human error. The Company sincerely regrets the inconvenience caused to the authorities and its shareholders and the management has decided to take corrective measures to ensure that such errors may not be repeated in future."*

9. On the hearing date, Mr. Nouman Ahmed Usmani, Company Secretary of NRL appeared in person whereas Mr. Mohammad Irfan Amanullah, appeared on behalf of the National Refinery Limited (NRL) & the Chief Executive Officer of NRL ("**Authorized Representative**"). Muhammad Ghufuran, Deputy General Manager (Companies Affairs) of KSE also appeared in the hearing to represent Managing Director, KSE.
10. Mr. Usmani and the Authorized Representative reiterated the submissions made in the written reply to the SCN. When the Authorized Representative was apprised of the fact that there was no justification under the law for non-compliance of aforementioned clauses of Listing Regulations, he stated that the default may have made in complying with the relevant provisions of the Listing Regulations, which is contravention of Section 22 of the Securities and Exchange Ordinance, 1969. The Authorized Representative prayed that the Commission may take a lenient view in the matter and in future Respondents will ensure the compliance of all rules and regulations framed by the Commission.
11. Muhammad Ghufuran, Deputy General Manager (Companies Affairs) of KSE presented the views of the KSE and asserted that the default on the part of the Respondent is very severe and such violations of the Listing Regulations may result in instances of insider trading and unnecessary volatility in the price and trading volume of the scrip. Further, he emphasised that such instances hurt the interest of the small investors.
12. I have heard the arguments presented by Mr. Usmani and the Authorized Representative during the hearing. Additionally, I have persuaded the available record and written reply filed



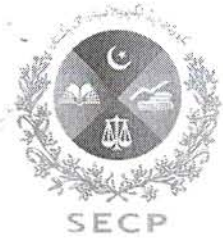


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by the Respondents. Accordingly, my findings on the arguments and accretions made by the Respondents to the issues raised in the SCN are as follows:

- i) The contention of the Respondents that they have disclosed the required material information to the Karachi Stock Exchange (KSE) immediately after concluding the BOD meeting and in the manner prescribed by the Karachi Stock Exchange Limited ("1<sup>st</sup> Announcement") and the 2<sup>nd</sup> Announcement was actually to address the discrepancies in the 1<sup>st</sup> Announcement which occurred due to miscalculation, is not acceptable as the 1<sup>st</sup> Announcement cannot be considered as disclosure of material information which in the instant case was (i) EPS of Rs. 4.61 (*announced as Rs. 11.50 in 1<sup>st</sup> announcement*) and (ii) PAT of Rs.368.996 million (*announced as Rs. 919.676 million in 1<sup>st</sup> announcement*). Hence the requisite material information was disseminated to KSE on March 31, 2013 at 3:46 pm, about 199 minutes after the 1<sup>st</sup> Announcement which was disseminated at 12.27 pm. Consequently the requisite information was disseminated after the close of trading session of the day.
- ii) With respect to the contention of the Respondents that 1<sup>st</sup> Announcement did not create any volatility in the share price of the Company as alleged, suffice is to say that in the instance case SCN issued to the Respondent under Section 22 of the Securities and Exchange Ordinance, 1969 for not complying the Listing Regulations made thereunder and the observation mentioned in the SCN with respect to heavy trading volume in the scrip was to cite the fact that the announcement of financial results was extremely price sensitive and resulted in volatility in the Respondent's share price during the time of initial and subsequent announcements by the Respondent.
- iii) The submission of the Respondents that the reporting of quarterly financial results falls under Regulation 16 and 17 of the Listing Regulations, may not be relevant as the non-disclosure of material information and the late dissemination of material information amounts to contravention of the provisions of Regulations 16(1) and



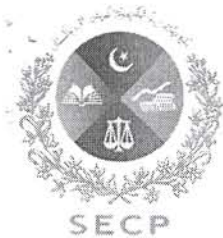
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35(xx) of the Listing Regulations. The Respondents in their written as well as verbal submission admitted that the discrepancies in the 1<sup>st</sup> announcement were occurred.

13. I am of the view that for efficient, fair and transparent market, two principles must apply: companies need to release relevant information as soon as it is available; and all the investors who want to deal in shares should have access to the same information at the same time. Moreover, for the protection of the investor's interest, a listed company must communicate information to shareholders and potential shareholders in such a way as to avoid the creation of a false market. Therefore, when an announcement is to be made, a company must take all reasonable care to ensure that any information it disseminate to the market is not misleading, false or deceptive, and that it does not omit anything that is likely to affect the price of the scrip. In the instance case, Respondents have failed to disclose the requisite price-sensitive material information as envisaged in the Listing Regulations, since same was not disseminated to the Commission and the Stock Exchanges beforehand as required. Furthermore, they have also failed to comply with the provisions of Regulation 16(1) of the Listing Regulations of KSE and the requirements stated in the Correspondence Manual of KSE, made pursuant to the Listing Regulations by not disseminating the price sensitive information immediately in the manner notified by the Exchange. Additionally the 1<sup>st</sup> Announcement by the Respondents created a misleading and false market.
14. It is pertinent to mention here that National Refinery Limited is one of the well reputed company of Pakistan and belongs to a very well-known group in the oil and gas sector. Accordingly, the management of the Company is expected to be conversant and fully complied with the regulatory requirements. The stock market is highly sensitive in nature and occurrence of such instance endangers investor confidence in the stock market, harmful for the development of the capital market and detrimental for the interest of market participants.
15. In view of the facts and my findings and observations thereon, it is established that the Respondents have failed to conform to the provisions of the Ordinance by failing to comply with the provisions of Listing Regulations made thereunder. However, taking a lenient view





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in the matter, I hereby, impose a penalty of Rs. 500,000/- (Rupees five lacs only) on the Company. I also direct the Company to ensure that full compliance be made of all rules, regulations and directives of the Commission in the future for avoiding any serious punitive action under the law.

16. The Chief Executive and Company Secretary of NRL are directed to ensure compliance of the law in letter and spirit. They are strictly forewarned that if any default of the provisions of the Ordinance is observed herein onwards penal action will be taken accordingly.
17. The matter is disposed of in the above manner and the Company is directed to deposit the fine in the account of the Commission being maintained in the designated branches of MCB Bank Limited not later than thirty (30) days from the date of this Order and furnish the copies of the deposit challan to the undersigned.
18. The Order is issued without prejudice to any other action that the Commission may initiate against the Respondents in accordance with law on matters subsequently investigated or otherwise brought to the knowledge of the Commission.



  
**Imran Inayat Butt**  
Director/HOD (MSRD)

Announced on May 30, 2013  
Islamabad.