



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN  
SPECIALIZED COMPANIES DIVISION  
NON-BANKING FINANCE COMPANIES DEPARTMENT (NBFC-D)

BEFORE MR. ASIF JALAL BHATTI, DIRECTOR (NBFC-D)

IN THE MATTER OF M/S NOMAN ABID INVESTMENT MANAGEMENT LIMITED

IN RESPECT OF SHOW CAUSE NOTICE DATED MAY 08, 2009 UNDER  
SECTION 282J (1) & (2) READ WITH SECTION 282M OF THE COMPANIES  
ORDINANCE, 1984

No. and Date of Show Cause Notice: NAIML/MF-D(NBFC-D)/525/2009  
Dated May 08, 2009

Date of Hearing: June 08, 2009

Present: Dr. Adnan Abid, Chief Executive Officer, on  
behalf of Noman Abid Investment Management  
Limited

Mr. Hasnat Ahmad, Director (NBFC-II)  
Mr. Vinod Sitani Joint Director (NBFC-II)  
Mr. Waseem Khan, Deputy Director (NBFC-D)

**ORDER**

This Order shall dispose of the proceedings initiated against M/s Noman Abid Investment Management Limited (the "Company") and its directors through a Show Cause Notice ("SCN") dated May 08, 2009, under the provisions of Section 282J (1) & (2) read with Section 282M of the Companies Ordinance, 1984 (the "Ordinance").

The Company is a Non-Banking Finance Company licensed by Securities & Exchange Commission of Pakistan (the "Commission") under the provisions of the Ordinance, and Non-Banking Finance Companies (Establishment and Regulation) Rules, 2003, to carry out the business of Asset Management Services and is managing Reliance Income Fund (the "Fund"), an open-end scheme.

2. SCN was issued under the provisions of Section 282J (1) & (2) read with Section 282M of the Ordinance encompassing the following three main issues:-

- (i) On 17<sup>th</sup> April, 2009, the Company received Rs. 95.5 million from Saudi Pak Leasing Company Limited (SPLCL) in respect of the Fund's investment in Certificate of Investment (COI) worth Rs. 100 million against which a provision of Rs. 30 million was made on 3<sup>rd</sup> April, 2009. Despite the fact that the amount representing more than 95% of the Fund's investment in SPLCL was credited into bank account of the Fund before the close of business hours on 17<sup>th</sup> April, 2009, the provision of Rs. 30 million made against the said investment was not reversed on 17<sup>th</sup> April, 2009. Therefore, *prima-facie*, the Company knowingly and willfully understated the Net Asset Value per unit ("NAV") of the Fund by Rs. 2.04 on 17<sup>th</sup> April, 2009, in respect of outstanding number of units aggregating to 12,421,713 and announced NAV of Rs. 33.77 as per daily statement of assets and liabilities submitted by the Company to this office on 17<sup>th</sup> April, 2009.
- (ii) As NAV of the Fund was understated on 17<sup>th</sup> April, 2009, the Company processed the requests of the close relatives of CEO of the Company for issuance of the Fund's units worth Rs. 79 million to the father of CEO, Mr. Muhammad Abid, and the brother of CEO, Mr. Faraz Abid. The Company, being insider to the information that the understated NAV of the Fund would increase on the very next business day as a result of reversal of the provision of Rs. 30 million held against COI of SPLCL (substantiated by the letter of the Company dated 16<sup>th</sup> April, 2009, written to the Trustee and actual receipt of more than 95% of the Fund's investment on 17<sup>th</sup> April, 2009), *prima-facie* intended to gain undue advantage for the close relatives of CEO of the Company at the cost of other unit holders. The said assertion can be corroborated by the fact that the provision held against COI of SPLCL was reversed by the Company on the very next business day, i.e. 20<sup>th</sup> April, 2009, and announced NAV of Rs. 35.81 resulting in an increase of Rs. 2.04 in NAV (as the number of units increased due to issuance of units to close relatives on 17<sup>th</sup> April, 2009) as per the daily statement of assets

and liabilities dated 20<sup>th</sup> April, 2009, provided by the Company to this office. Out of the total issuance of units that took place from 2<sup>nd</sup> April, 2009, to 20<sup>th</sup> April, 2009, 99.25% of such issuance was made to the close relatives and the Company.

To take undue advantage of the increased NAV of the Fund, out of the total issuance of 2.3 million units, worth Rs.79 million, at the understated NAV to the close relatives of the CEO of the Company, the redemption requests for the entire issuance of units to the same close relatives were processed by the Company within next two business days i.e. 20<sup>th</sup> & 21<sup>st</sup> April, 2009, falling immediately after the date of issuance. The redemption requests were withheld by the Trustee and the Trustee vide letter dated 22<sup>nd</sup> April, 2009, enquired the reasons for increase in NAV on 18<sup>th</sup> April, 2009, when compared to the NAV as of 17<sup>th</sup> April, 2009. Owing to the intervention by the Trustee, the Company adjusted upward the NAV of the Fund by Rs. 2.41, i.e. from Rs. 33.78 per unit to Rs. 36.19 per unit for 17<sup>th</sup> April, 2009, after taking into account the reversal of the provision held against COI of SPLCL. Thereafter, the units issued to close relatives of the CEO at understated NAV were re-assigned at the revised NAV of 17<sup>th</sup> April, 2009. The statement of assets and liabilities depicting revised NAV of 17<sup>th</sup> April, 2009, was submitted by the Company to this office on 27<sup>th</sup> April, 2009. Subsequent to the revision of NAV for 17<sup>th</sup> April, 2009, the redemption requests were processed by the Trustee.

- (iii) Ms. Gul-e-Nasreen, one of the unit holders of the Fund, had made a redemption request on 16<sup>th</sup> December, 2008, which was duly acknowledged by the Company on the same date. The Company was required to issue the payment instrument within six working days. However, the Company did not take the requisite action and failed to issue any payment instrument for the redemption money to the unit holder. In the meantime, dealing in the units of the Fund was suspended by the Company with effect from 12<sup>th</sup> January, 2009. The said suspension continued till 03<sup>rd</sup> April, 2009. As the Company failed to process the earlier redemption request of the unit holder, Ms. Nasreen submitted another request for redemption on 8<sup>th</sup> April, 2009, i.e. subsequent to resumption of dealing in units of the Fund.

The second request was also not booked in the system by the Company till 16<sup>th</sup> April 2009. Ms. Nasreen's redemption request was entertained on the basis of NAV of 16<sup>th</sup> April, 2009, which was approximately lower by Rs. 13/- per unit as compared to the NAV of 16<sup>th</sup> December, 2008, i.e. the date of original redemption request filed by Ms. Nasreen. Consequently, the Company caused a loss of approximately Rs.150,000/- to Ms. Nasreen.

The Company also failed to forward the redemption request of the said unit holder to the Trustee within the stipulated timeframe of twenty-four hours on both the occasions.

The issues mentioned in the paragraphs (i) to (iii) led to the impression that the Company failed to manage the Fund in the interest of the unit holders in good faith in violation of Regulation 38(a) & Regulation 57(4) of the NBFC & NE Regulations 2008, and Section 282D of the Companies Ordinance, 1984 which attracts penal provisions of Section 282J (1) & (2) of the Ordinance.

3. In response to the issues raised in the SCN, Dr. Adnan Abid, Chief Executive of the Company, on behalf of the Company and all the members of board of directors vide letter dated 15<sup>th</sup> May , 2009, furnished the following explanations:

- (i) With regard to the issue state at Para 2(i) regarding understatement of NAV, he contended:

**Quote**

*"the Company wanted to rely on the bank confirmation regarding the amount received before reversal of any provisioning as the Cheque could have been bounced. The Company received the bank confirmation on the next day; therefore the provision was reversed on the next day. Moreover, he submitted that as per the requirements of the trustee NAV of 17<sup>th</sup> April 2009 was changed thereafter".* **Unquote**

- (ii) With regard to the issue stated at Para 2(ii) regarding issuance of units to close relatives of CEO on understated NAV and immediate redemption thereof on increased NAV, the CEO submitted:

**Quote**

*“The Company did not entertain the request of Mr. Muhammad Abid on 17<sup>th</sup> April 2009. The same was made on 14<sup>th</sup> April, 2009 and at that time there was no clue as to the recovery from SPLCL, Muhammad held certain Certificate of Musharika of First Punjab Modaraba of Rs. 54 million, despite several requests First Punjab Modaraba did not pay the said amount due to their financial problems. Upon his several requests even, they did not pay him his amount and towards the end they took plea that as Bank of Punjab has exposure in Reliance Income Fund therefore they will keep the said COM to cover their exposure. We tried to convince them that if this is the situation then keep the amount in the Bank of Punjab account Mr. Muhammad Abid instead of First Punjab Modaraba even then they did not agree as such due to the fact that First Punjab Modaraba did not have liquidity. Then Mr. Muhammad Abid agreed with them that out of Rs. 54 million, Rs. 44 million may be placed in the name of Reliance Income Fund with BOP they said that they shall place with Reliance Income Fund but they said that RIF should place the same amount with First Punjab Modaraba, we consulted the trustee that can the name of the COM be changed into the name of RIF instead of Mr. Muhammad Abid and can this way sale of units take place they said no, the sale has to take place through banking channel, therefore after obtaining trustee’s consent we requested First Punjab Modaraba again so they agreed on one pretext that they shall give IBCA to BOP account Mr. Muhammad Abid and that we should give them cheque from the same account in favor of Reliance Income Fund and we should give instructions to the trustee to place the same amount in First Punjab Modaraba in COM (Initially they were of the stance that entire Rs. 54 million be place with RIF but towards the end they agreed they shall pay Rs. 10 million to Mr. Muhammad Abid and the remaining Rs. 44 million be kept with RIF). The communication on the subject with First Punjab Modaraba have been taking place for past several months and even their final stance was finalized on 10<sup>th</sup> April with them. The Company at that time had no knowledge of the reversal of provision of SPLCL whereas further provision could have come in the event if recovery was not made from SPLCL, where as it*

*was the trustee who insisted us to give Mr. Muhammad Abid the NAV of 17<sup>th</sup> April, 2009 and that also revised NAV. The trustee after having confirmed that COM can be placed with First Punjab Modaraba later on did not allow us to execute the said transaction, the instructions in this respect were duly sent to trustee but as the COM could not be placed therefore this caused delay in realization of the funds from Mr. Muhammad Abid. The sale of Mr. Faraz Abid was due to be booked in the system on 16<sup>th</sup> April as the form and the cheque had reached our office on 16<sup>th</sup> April due to the fact that day end of 16<sup>th</sup> April had already taken place the application was entertained on 17<sup>th</sup> April and the cheque was give to the dispatch rider for deposit in the fund account but due to human error and also due to the fact that the concerned rider fell sick and therefore he deposited the cheque on 20<sup>th</sup> April in Same Day clearing. Furthermore there were other applications also submitted on or before 17<sup>th</sup> which include Mr. Saleem & Ms. Shazia out of which Mr. Saleem a large investor backed out for investment due to the trustees' wrong intervention and our rider's mistake which created risky environment. We as soon as we opened the issuance and redemption tried to convince many of our existing as well as potential customers that some day hopefully we shall be able to get the amount presently as bad debt and at that time there could be substantial gain as this was public information. Furthermore we had already indicated through our various correspondences with the SECP that Sponsor's are ready for commitment towards core capital of the new funds and also ready for investment in the existing fund. If it was matter of taking undue advantage and if we were known of the facts as narrated in your letter our group/relatives could have made application for investment well in advance and with very very big amounts and this could also have been done involving other names and why the names of so close relatives. The transactions were purely made with merit and we were trying to build up the confidence and expecting further sales from our associated and other investor. The investment made would have stayed much longer but due to mistreatment and the risk environment made out by the trustee, the investors redeemed their entire units from us as money flies away from risk/unsafe areas. No directive of the trustee*

*was received, whereas we voluntarily adjusted the NAV of 17<sup>th</sup> April, 2009 upon the discussions held with the trustee.” **Unquote***

- (iii) With regard to the issue stated at Para 2(iii) regarding non-processing of redemption request of Ms. Gul-e-Nasreen within prescribed time period, the CEO submitted that

**Quote**

*“the previous application of the said customer was not entertained due to shortage of funds and thereafter the suspension took place and after lifting of suspension their application was discussed with them to convince them not to withdraw as they should wait and eventually in the long run they will get good NAV but upon their insistence redemption was processed in due time.” **Unquote***

4. In order to provide an opportunity of personal hearing, the directors and CEO were advised to appear before me on 25<sup>th</sup> May, 2009. However, upon request made by the CEO, the hearing in the matter was conducted on 8<sup>th</sup> June, 2009.

5. The CEO appeared before me on behalf of the Company as well as all members of the Board of Directors. No additional information was submitted by the CEO in support of his contentions during the hearing and he insisted upon the submissions made earlier vide his letter dated 15<sup>th</sup> May, 2009. He requested to withdraw the show cause proceedings against the Company as neither any undue advantage was intended nor taken and no unit holder has been deprived of his/her interest. Moreover, he emphasized that nothing detrimental to the interest of the unit holders has taken place.

6. Subsequent to the hearing, this office vide letter dated 11<sup>th</sup> June, 2009, advised the CEO to provide certain additional information in support of his contentions which was provided by the Company by 8<sup>th</sup> July, 2009.

7. I have analyzed the facts of the case and have duly considered and examined the written submissions made by the Company vide letters dated 15<sup>th</sup> May, 2009, 30<sup>th</sup> June, 2009, & 8<sup>th</sup> July, 2009, along with the arguments presented by CEO, on behalf of the Company and its directors, during the hearing conducted on 8<sup>th</sup> June, 2009. My seriatim observations to the plea taken by the Company are as under:

- (i) The submissions made by the Company with regard to understatement of NAV are untenable as the Company vide its letter dated 16<sup>th</sup> April, 2009, addressed to the trustee and Saudi Pak Leasing clearly communicated as under:-

**Quote:** “ *With reference to our COIs placed with Saudi Pak Leasing Company (SPLC) of Rs. 100,000,000/- (One Hundred Million Only), as agree to pay us 95,500,000/- (Ninety Five Million Five Hundred Thousand Only) against the COIs tomorrow in same day clearing, you are kindly requested that the COIs to them once the proceeds are cleared in our UBL, KSE Branch account, against the remaining 4,500,000/- they shall issue new COIs in favor of our fund i.e. Reliance Income Fund*” **Unquote**

Moreover, the bank statement of the Fund’s account reflected the impact of proceeds on 17<sup>th</sup> April, 2009.

The pricing mechanism for determining and announcing NAV of the Fund is based on forward pricing. Therefore, it is imperative for the Company to obtain latest position with regard to all of its assets and liabilities, especially closing bank balances from the trustee and the concerned banks prior to announcing NAV for any particular day. It was vital for the Company to know the exact status of the proceeds to be realized from SPLCL before determining NAV of the Fund on 17<sup>th</sup> April, 2009, as the provision had already been created against the COIs of SPLCL and any realization of proceeds to this effect would definitely have had a material impact on NAV of the Fund. Hence, the plea taken by the CEO that the Company was not aware of the credit of proceeds from SPLCL into the Fund’s account is untenable. The said assertion can be corroborated from the fact that subsequently NAV of the Fund as of 17<sup>th</sup> April, 2009, was revised/adjusted upward by the Company to incorporate the effect of proceeds received from SPLCL. Moreover, the explanation of the Company regarding revision of the NAV of 17<sup>th</sup> April, 2009, is self contradictory as the Company at para 6 of its letter dated 15<sup>th</sup> May, 2009, states that it revised the NAV as per the requirement of trustee whereas at para 11 of the same letter it states that NAV was revised voluntarily.



- (ii) Regarding issuance of units to close relatives of CEO on understated NAV and immediate processing of their redemptions requests, it has been observed that as such no issuance of units took place on the basis of application dated 14<sup>th</sup> April, 2009, accompanied by a cheque of Rs. 54 million drawn on the BOP. The said application for issuance of units of Mr. Muhammad Abid was made in consideration of the transaction to be executed between the Fund and First Punjab Modaraba through Bank of Punjab. The purpose of this arrangement was to accommodate the encashment of Mr. Muhammad Abid's investment in the COM of First Punjab Modaraba by transferring the said COM to the Fund. Owing to this arrangement, a cheque drawn on BOP was also attached. However, the said transaction could not be materialized.

The above referred arrangement had no relation to the issuance of units on 17<sup>th</sup> April, 2009, as two fresh cheques of Rs. 10 million and Rs. 44 million were deposited in the Fund's bank account on 17<sup>th</sup> & 18<sup>th</sup> April, 2009, respectively and the same were cleared. On the basis of these cheques, understated NAV of 17<sup>th</sup> April, 2009, was assigned to Mr. Muhammad Abid despite the following:

- There was no application accompanied with these cheques deposited on 17<sup>th</sup> & 18<sup>th</sup> April, 2009, and the dates on the cheques were overwritten from 17<sup>th</sup> April, 2009, to 14<sup>th</sup> April, 2009, to give the impression that these cheques relate to the application dated 14<sup>th</sup> April, 2009, for issuance of units.
- The reference to the application dated 14<sup>th</sup> April, 2009, is irrelevant and cannot be considered as the payment instrument mentioned on that application and attached thereto was never deposited/processed.

Despite these irregularities, units were issued to Mr. Muhammad Abid on NAV of 17<sup>th</sup> April, 2009, to accommodate his investments prior to the reversal of provision held against the COI of SPLCL. In order to pass on the undue benefit of the differential NAV, the redemption request of Mr. Muhammad Abid for the entire units issued to him on 17<sup>th</sup> April, 2009, was also processed on the very next business day, i.e. 20<sup>th</sup> April, 2009, falling immediately after the date of issuance.

Apart from the above transaction, to reap undue advantage for the close relatives, the Company also revolved funds of Rs. 25 million of Mr. Faraz Abid by issuing units to him on understated NAV of 17<sup>th</sup> April, 2009, and processing his redemption request in respect of these units on 21<sup>st</sup> April, 2009, i.e. within next two business days falling immediately after the date of issuance. However, the redemption requests of both the close relatives were withheld by the Trustee and subsequent to the upward adjustment of NAV of 17<sup>th</sup> April, 2009, the Trustee processed the redemption requests of both the close relatives.

I am of the view that if these investments were made with genuine intentions, these could have stayed much longer rather than just for one or two days and the entire issuance and redemption of units on these days would not have been made only to the close relatives of the CEO.

The above facts and the chain of events do not support the explanation given by the Company and it transpires that an attempt was made to pass on undue advantage to the close relatives of the CEO of the Company to the extent of at least Rs. 5.54 million (2.41\* 2.3 million i.e. the differential increased NAV of the Fund multiplied by the number of units issued to the close relatives) through issuance and redemption of units within two business days.

- (iii) The submissions made by the CEO are not based on facts and do not carry any substance. The redemption application for Ms. Gul Nasreen was duly received by the Company on 16<sup>th</sup> December, 2008, whereas the suspension of the Fund took place on 12<sup>th</sup> January, 2009, i.e. almost a month later. The claim of the Company regarding the Fund being gripped by liquidity constraints faced by the Fund during this period is also refuted by the fact that during the same period, redemptions worth over Rs. 50 million were paid out by the Fund to the Company & its group associates including Noman Abid & Company Limited and GEC Institute, substantiated by the daily issuance & redemption report submitted by the Company to this office. The Company deliberately disregarded Ms. Gul Nasreen's redemption request. The Company failed to apply NAV on the basis of original/first redemption application filed by Ms. Nasreen which

resultantly caused a loss of approximately Rs. 150,000/- to the unit holder. The Company also failed to forward the redemption request of the said unit holder to the trustee within the stipulated timeframe.

8. In view of the foregoing facts and observations, I am convinced that initially, the NAV as on 17<sup>th</sup> April, 2009, was understated and units were issued to the close relatives of the CEO on the basis of this NAV. Subsequently, the NAV of the said date was revised upward and the revised NAV was assigned to the issued units accordingly. With regard to Ms. Nasreen's issue, it is established that the Company has caused her a loss of approximately Rs. 150,000/-, as it not only failed to process her redemption application within the stipulated timeframe but also failed to allocate the applicable NAV.

9. Consequently, the Company has violated Regulations 38(a) and 57(4) of the NBFC & NE Regulations 2008, and Section 282D of the Companies Ordinance, 1984 which attracts penal provisions of Sections 282 J (1) & (2) of the Ordinance. However, since undue benefit was not passed on to the close relatives of the CEO and resultantly no loss has been caused to the unit holders of the Fund, I am persuaded to take a lenient view. Accordingly, the license of the Company is not being cancelled, however, the Company has to bear the burden of the culpability of the aforementioned contraventions of the legal framework. Therefore, in exercise of powers of Sections 282J (1) of the Ordinance, I hereby impose a penalty of Rupees five hundred thousand (Rs.500,000) only on the Company.

10. The Company shall pay the fine from its own resources and shall not charge the penalty amount to the Fund managed by it.

11. The Company is directed to deposit penalty amounts in the bank account of Securities and Exchange of Pakistan with the Muslim Commercial Bank Limited within thirty days from the date of this Order and furnish the original challan receipt with the Commission.

12. Further, the Company is liable to compensate Ms. Nasreen for the loss caused due to differential in NAV from 16<sup>th</sup> December, 2008, to 16<sup>th</sup> April, 2009. Accordingly, the Company is directed to pay the said differential amount of Rs.150,000/- to Ms. Nasreen within fourteen days from the date of this Order.

13. 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 law.



(Asif Jalal Bhatti)  
Director (NBFC)

12/08/09

**Announced: August 12, 2009**  
**in Islamabad.**