



# TRANSPARENCY INTERNATIONAL-PAKISTAN

2<sup>nd</sup> June 2016

5-C, 2nd Floor, Khayaban-e-Ittehad, Phase VII,  
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The Chairman,  
Securities and Exchange Commission of Pakistan,  
Jinnah Avenue, Blue Area,  
Islamabad.

Subject: Complaint against SECP for not acting on SBP instructions against JS Bank  
Limited-Ref SECP DD letter No. EMD/233/685/02/2140 dated April 27, 2016

Dear Sir,

Kindly refer to SECP DD letter No. EMD/233/685/02/2140 dated April 27, 2016 whereby the Transparency International Pakistan letter dated April 15, 2016 has been rebutted instead of providing verbatim response to the serious observations of the State Bank of Pakistan vide their letter to SECP NO BPRD/CSMRP/15930/14 dated 29.8.2014 on handling of JS Bank affairs. **Annex-A.**

The TIP letter dated April 15 2016 was to hark-back the SECP that the wobbly ground taken by SECP in its letter No. SMD/SSD/OSW/MISC/05/2015 dated March 29, 2016 communicating to TIP that "the CCG has specifically used the term "encouraged" in regard to the representation of minority shareholders on the board of directors which cannot be considered as mandatory requirement" are totally misconceived, without grounds and contrary to the spirit of the Code of Corporate Governance 2012. **Annex-B.**

The report of SECP inspection team dated January 2, 2014 is cited on the factual position and TIP adhere to its position that the SECP report contained the admission reported by Jahangir Siddiqui & Company Limited (JSCL) to SECP to justify Ali Jahangir's role as adviser.

"to enhancing the paid up capital of the JS Bank Limited through transfer of shares of JS Global Capital Limited and JS Investments Limited to JS Bank Limited valued at Rs. 1,686 million, a subsidiary of JSCL to meet the JS Balance minimum capital requirement of Rs 10 Billion".

IN TIP letter, it was stated that the complainant has reported to TIP about this admission by JS Bank in the SEWCP Report, and therefore the paragraphs was qualified with coma, and complainant statement "which is against the SBP Rules". SECP must read the Inspection Report of JSCL prepared by two SERCP officers Shazad Afzal Khan Joint Director and Amir Saleem Dy Director submitted on January 2, 2014 to Ali Azeem Ikram, Head of Enforcement Department SECP.

**Note:** The Supreme Court of Pakistan on an application of Syed Adil Gilani which included the allegation of illegal payment of Advisory fee of \$ 4.3 million to Ali Jehangir, approved Human Right Case, HRC No 14240-S/2013, and informed the Chairman vide letter dated 12.8.2014 of the Director HRC Supreme Court of Pakistan that the HCJP has ordered to submit progress report by 30.8.2014. **Annex-C** due to SECP act of hiding the PICT Inspection Report of 2<sup>nd</sup> January, 2014 from NAB.





NAB submitted a wrong progress report on 26.8.2014 to the Supreme Court of Pakistan, stating that according to SECP, "As regard to payment of Advisory Fee to one director of JSCL, the matter is under probe. However, 7 months ago PICT Inspection Report of 2<sup>nd</sup> January, 2014 had recommended that directions may be issued to unwind the transaction in respect of payment of Advisory fee of Rs 430.944 million and initiation of legal proceedings against the company and its directors. SECP has deceived NAB by concealing the relevant Inspection Report of 2<sup>nd</sup> January 2014, and tried to distract the NAB as well as the Supreme Court of Pakistan.

With regards to the allegation illegal act of the complainant on enhancing the paid up capital of the JS Bank Limited through transfer of shares of JS Global Capital Limited and JS Investments Limited to JS Bank Limited valued at Rs. 1,686 million, a subsidiary of JSCL to meet the JS Balance minimum capital requirement of Rs 10 Billion, SECP in its clarification to TIP dated 4.3.2016, has stated that " **This falls within the ambit of State Bank of Pakistan, ( copy of your letter is endorsed to Governor SBP).**

But in SBP subsequent letter of 27.4.2016, SECP has stated that "It is clarified that the matter of allowing increase in capital of Bank to meet Minimum Capital requirement as prescribed by State Bank of Pakistan was approved on the basis of NOC from the SBP".

The two contradictory statements on JS Balance minimum capital requirement of SECP raises doubts about SECP as well as SBP role on this issue.

SBP has not even bothered to clarify its position on this issue, not on the SBP failure to pursue the SBP objection sent to SECP for 2 years.

TIP in the said letter wrote that "The SBP categorically stated that in the case of bank (JS Bank) did not appear to have any representation of **minority shareholders or institutional investors on its board** rather in arrangement AGM provided sufficient reasons to believe that bank has discouraged the participation of minority shareholders even in the AGM.

The SBP also informed SECP that during the SBP regular inspection, it was observed that in the 7th AGM of JS bank held on March 29, 2013, total 196 (including 23 proxies) shareholders attended the AGM and 162 participants (94%) who attended the AGM in person were employees of the bank who hold one share. Similarly 11 shareholders holding 1 share each had the same address which was not a normal situation. Further the SBP team meeting with the 4 bank employees who were shareholders informed to SBP Team that they have no idea any share was purchased on behalf of them.

**These are the findings of the SBP vide its letter to SECP dated 29.8.2014, and merely not observations.** As the s SBP deemed their findings to be serious issues, it the SECP to look into and initiate proceedings. But SECP even after lapse of more than two years not only sat on SBP observations, but also did not take any action against the JS Bank.

By its observations SBP has conveyed its views to SECP that when the 94% of share holders in AGM are employees of JS Bank, the decision making at the AGM would be protecting the interest of the sponsors and not the general public, investors and the depositors.

The SECP should have initiated the investigations to find out whether these 94% AGM attendants purchased shares by themselves or not, and how, where placed, who are the





brokers, who paid on their behalf, and where these shares were parked (in their own CDC account or lease) etc.

TIP is of the opinion that such investigations would have led the SECP to a logical conclusion and to address the concerns of the State Bank of Pakistan

SECP response apprises about the legal position in case general meeting proceedings have to be declared invalid, whereas SBP is raising objections with respect to the intent and malafide intention of the sponsors to manipulate the situation, which could only be achieved once investigations are conducted by SECP.

Investigations into the observations of the SBP would have made the whole situation crystal clear. Therefore, we once again request SECP to conduct investigations on the basis of observations of SBP.

The assertions made by SECP with regard to CCG are not at all convincing and one feels flabbergasted while regulator is denying the requirements of CCG especially relating representation of **minority shareholders or institutional investors on its board** on the Boards.

It seems very odd to let regulator understand that Board is constituted (in addition to other directors appointed under the Companies Ordinance 1984) through the process and proceedings of general meeting, and if the meeting participants and voting is manipulated by the sponsors than the whole purpose of having legislation and codes for good governance by the regulator is self-defeated by the regulator itself.

However, since the SECP in its letter dated March 29, 2016 stated that the CCG has specifically used the term "encouraged" in regard to the representation of minority shareholders on the board of directors which cannot be considered as mandatory requirement" TIP specifically stated in its letter dated April 15, 2016 that " your attention is drawn to Part XI of the Listing Regulations of Pakistan Stock Exchange (previously Karachi Stock Exchange) clause 35 that stipulates that all listed companies shall ensure compliance with the following Code of Corporate Governance (CCG) and all provisions except where explicitly stated otherwise are mandatory. So at the first instance the provisions of the CCG are mandatorily need to be complied with by all the listed companies (TIP understands SECP subjects JS Bank to these listing regulations.

The legislature used the term "shall" to emphasis the mandatory requirement. Further clause 35(i) provides that the board of directors is encouraged to have a balance of executive and non-executive directors, including independent directors ..... The clause further states that "For this purpose listed companies shall take the following steps" and again use the word "shall" to lay stress being mandatory and then the next clauses stipulates the procedure for appointment of non-executive/independent director. TI likes refer to your attention to Frequently Asked Questions (FAQs) annexed to CCG to augment its view point. FAQ is reproduced here as under:

FAQ -7: What are the implications if a listed company fails to nominate an independent director on its board? (FAQ 7)





Clause (i)(b) of the Code 2012 requires at least one independent director on the board. This is now a mandatory provision and any non-compliance will be penalized under listing regulations.

FAQ-13: In a board of seven, what will be the composition as per the criteria laid down in the Code 2012?

If there are seven directors on the board of a listed company, the composition as per the Code 2012 will be: **one independent director**, two executive directors (including the CEO) and four non-executive directors. This clearly shows requirement is not to encourage but it is mandatory and also that when the process that leads to election of directors is manipulated the whole process is abused. And SBP in its letter to SECP dated 29.8.2014 has specially pointed out this violation of JS Bank.

In view of the above, SECP is once again requested that based on SBP letter dated 29.8.2014 investigations be initiated to find out whether these 94% AGM attendants purchased shares for themselves and how, where placed, who are the brokers, who paid on their behalf, and where these shares were parked (in their own CDC account or lease) etc. and non viability of Independent Directors on Board of JS Bank so that SECP and SBP may take action accordingly.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption, and achieve the ongoing Zero tolerance against Corruption policy of the Prime Minister,

With Regards,

  
Sohail Muzaffar  
Chairman

Copies forwarded for the information with request to take action under their mandate to:

1. Secretary to Prime Minister, Islamabad.
2. Chairman, NAB, Islamabad.
3. Chairman, PMIC, PM Secreraytite, Islamand
4. Registrar, Supreme Court of Pakistan, Islamabad. With refrence to HRC No 14240-S/2013, specially of concealment of the SECP Inspection Report of JSCL from Honorable Court and NAB of US \$ 4.3 million advisory fee paid for sale of PICT Shares.





ANNEX-A

Say No to Corruption  
**THROUGH COURIER**

No. EMD/233/685/02/ 240

April 27, 2016

**Mr. Sohail Muzaffar**  
**The Chairman**  
Transparency International - Pakistan,  
5-C, 2<sup>nd</sup> Floor, Khayaban-e-Ittehad, Phase VII,  
Defence Housing Authority,  
Karachi.  
Tel: 021-35390408

**Subject:** **Complaint against JS Bank Limited**

Dear Sir,

This is with reference to your letter dated April 15, 2016 in the matter of JS Bank Limited (the "Bank"). You have referred to a complaint received by you on the captioned subject that has not been found attached with your letter. We would appreciate if original complaint is provided to the SECP.

2. In this connection, it has been observed that following issues have been raised in the above mentioned letter:

- a. According to SECP report on JSCL, enhancing paid up capital by the Bank for meeting minimum capital requirement is against the SBP Rules;
- b. In the AGM of the Bank held on March 29, 2013 total 196 shareholders participated out of which 162 participants were employees of JS Bank, holding one share each; and
- c. There is no representation of minority shareholders or institutional investors on the board of directors of the Bank.

3. The issues have been examined again and following is stated:

- a. With reference to the abstract purportedly reproduced in your letter from SECP's inspection report dated January 02, 2014; it is noted with concern that no such observation has been made in the said inspection report. Without prejudice to aforesaid, it is clarified that the matter of





SECURITIES & EXCHANGE COMMISSION OF PAKISTAN  
Corporate Supervision Department

allowing increase in capital of the Bank to meet the Minimum Capital requirement as prescribed by State Bank of Pakistan (SBP) was approved on the basis of NOC from the SBP.

- b. With regard to the concerns about SBP letter communicating its observation to SECP, please note that notice of aforesaid annual general meeting was published in accordance with the legal requirements in newspapers having wide circulation on March 06, 2013. No complaint from any shareholder including institutional shareholders (NIT, NBP, Standard Chartered Intl USA Limited, Summit Bank, Habib Bank AG Zurich, Dubai etc. holding aggregate shareholding of 37.8 million shares) has been received by the SECP complaining about the conduct of AGM. Further law does not preclude employees from being a shareholder of a company. An employee who is a member of any company has all rights as that of any other member.

Notwithstanding the above, even if attendance of employee shareholders is not taken into account, the Bank was still in compliance with the quorum requirements of section 160 (2) of the Companies Ordinance 1984 in the said meeting.

Moreover Section 160A quoted below provides for circumstances in which proceedings of a general meeting may be declared invalid:

*"the court may on a petition by members having not less than ten percent voting power in the company, that the proceedings of a general meeting be declared invalid by reason of a material defect or omission in the notice or irregularity in the proceedings of the meeting, which prevented members from using effectively their rights, declare such proceedings or part thereof invalid and direct holding of a fresh general meeting. Provided that petition shall be made within thirty days of the impugned meeting"*

- c. In regard to your submissions pertaining to the Code of Corporate Governance (the "Code"), it appears that you have confused the *mandatory* requirement of independent director with the *encouraged* representation of the minority shareholders on the board. It is pertinent to reproduce the relevant extract from your letter dated February 27.

Quote

*"4. SBP has stated that SECP Code of Corporate Governance requires the banks to encourage the representation of minority shareholders on their boards."*





SECURITIES & EXCHANGE COMMISSION OF PAKISTAN  
Corporate Supervision Department

*5. But in case of JS bank it is observed that the bank did not appear to have any representative of minority shareholders or institutional investors on its board, rather in arrangements of the above AGM provided the sufficient reasons to believe that bank has discouraged the participation of minority shareholders even in the AGM."*

Unquote

The term "minority shareholders" has been used in your aforementioned letter, however, your subsequent submissions focus primarily on the independent director. It is reiterated that whilst the Code has encouraged the representation of minority shareholders on the board, it has made a mandatory requirement to have at least one independent director.

Further, it is disappointing that you have levelled unsubstantiated allegations against the officials of the Securities & Exchange Commission of Pakistan without accurate understanding of the requirements of the applicable regulatory framework.

In case you have any further queries, please do not hesitate to contact us.

Regards,

**Haris Bin Mohsin**  
Deputy Director  
Corporate Supervision Department





## TRANSPARENCY INTERNATIONAL-PAKISTAN

5-C, 2nd Floor, Khayaban-e-Ittehad, Phase VII,  
Defence Housing Authority, Karachi.  
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Website: www.transparency.org.pk

15<sup>th</sup> April 2016

Mr. Zafar ul Haq Hijazi  
Chairman SECP,  
NICL Building,  
Islamabad

Mr. Ashraf Mahmood Wathra,  
Governor,  
State Bank of Pakistan,  
Karachi.

Sub: Complaint against SECP for not acting on State Bank of Pakistan  
instructions against JS Bank.

Dear Sir,

Transparency International Pakistan on its letter No TL16/2702/1A dated 27.2.2016, has received three letters from SECP, on 4 March 2016, on 21 March 2015 and on 29 March 2016. Attached.

At the outset, this is to state that the complaint was not of TIP, but was from a complainant to TIP, with, two issues one based on the State Bank of Pakistan letter to SECP and the other based on the SECP report dated 2.1.2016 in JSCL PICT case.

The first issue reported was that according to SECP Report on Jahangir Siddiqui & Company Limited (JSCL) dated 2.1.2014, *"this is reported that to enhancing the paid up capital of the JS Bank Limited through transfer of shares of JS Global Capital Limited and JS Investments Limited to JS Bank Limited valued at Rs. 1,686 million, a subsidiary of JSCL to meet the JS Balance minimum capital requirement of Rs 10 Billion, which is against the SBP Rules."*

The second issue reported was the Observations of the State Bank of Pakistan sent to Chairman SECP vide letter No BPRD/CSMRP/15930/14 on 18 August 2014, on mandatory requirement of the minority shareholders or institutional investors on the Board of JS Bank, and the following observations;

1. Amid SBP regular inspection it was observed that in the 7<sup>th</sup> Annual General Meeting of JS bank held on 29-03-2013 total 196 (including 23 proxies) shareholders attended the AGM. 162 participants (94 %) who attended the AGM in person were employees of the bank who hold one share each.
2. Similarly 11 shareholders holding 1 share each had the same address which was not a normal situation.
3. Further, SBP inspection team meeting with the four bank employees carrying shares of the bank also substantiated the unusual pattern of the AGM, as three of them informed that they have no idea whether any share was purchased on behalf of them.
4. One employee told that he purchased one share last year but did not recall the purpose and mode of purchase.

On the first issue SECP has informed TIP in its 4.3.2016 letter that it falls within ambit of State Bank of Pakistan who has been copied TIP letter, but SBP has not responded since last 42 days.





On the Second issue SECP has rejected SBP observations, with categorical statement that *no departure from the applicable legal provisions has been noted by SECP.*

It appears that SECP did not take any action on SBP letter No BPRD/CSMRP/15930/14 dated 18 August 2014 for 1-1/2 years which not only proves SECP ignoring SBP requirements, but also laxity and very casual attitude as a prime regulator.

TIP is also surprised to note that SBP also remained silent till today (1 year and 8 Months) and did not press SECP for action on its serious observations which SBP thought were wrong actions of JS Bank.

On the SECP letter No. SMD/SSD/OSW/MISC/05/2015 dated March 29, 2016 received from Securities Market Division stating that *"the CCG has specifically used the term, "encouraged" in regard to the representation of minority shareholders on the board of directors which cannot be considered as mandatory requirement"*, TIP is extremely disappointed.

From such a jaded response from SECP working under your supervision after a period of 19 months of complaint received at SECP from SBP, responding to our letter dated February 27, 2015 clearly reflects the mindset and malicious intentions of the senior officials involved for not acting against the culprits defrauding and hoodwinking the money of public at large and are intended to bend backwards to save their masters with deep pockets from the law.

The delayed response in itself demonstrates that officers of SECP has nothing to defend against the sponsors of JS Bank as the made-up ground taken by SECP in March 2016 was available to the concerned even in August 2014 when SBP wrote to SECP, as there is no change in the referred provisions of CCG (Code of Corporate Governance).

This leads TIP to believe that senior officials of the SECP are in collusion, connivance, involvement and joining of hands with corporate gurus at the cost of interests of investors and general public.

Regarding the use of word "encouraged", your attention is drawn to Part XI of the Listing Regulations of Pakistan Stock Exchange (previously Karachi Stock Exchange) clause 35 that stipulates that all listed companies shall ensure compliance with the following Code of Corporate Governance (CCG) and all provisions except where explicitly stated otherwise are mandatory. So at the first instance the provisions of the CCG are mandatory need to be complied with by all the listed companies (TIP understands SECP subjects JS Bank to these listing regulations). The legislature used the term "shall" to emphasis the mandatory requirement. Further clause 35(i) provides that the board of directors is encouraged to have a balance of executive and non-executive directors, including independent directors . The clause further states that "For this purpose listed companies shall take the following steps" and again use the word "shall" to lay stress being mandatory and then the next clauses stipulates the procedure for appointment of non-executive/independent director.

TIP refers your attention to Frequently Asked Questions (FAQs) annexed to CCG to augment its view point. FAQ is reproduced here as under:





FAQ -7: What are the implications if a listed company fails to nominate an independent director on its board? (FAQ 7)

Clause (i)(b) of the Code 2012 requires at least one independent director on the board. This is now a mandatory provision and any non-compliance will be penalized under listing regulations.

FAQ-13: In a board of seven, what will be the composition as per the criteria laid down in the Code 2012?

If there are seven directors on the board of a listed company, the composition as per the Code 2012 will be: one independent director, two executive directors (including the CEO) and four non-executive directors

Had it been the intention of the legislature to let the regulatees to be "encouraged" then such explanations would have not been provided by him, therefore, any doubts has been eliminated through providing explanations in the form of FAQs that all provisions of CCG are mandatory and necessary to comply with. The Securities Market Division in its interpretation of CCG has looked at the requirement in isolation and not in whole and speaks volume and raises many questions about their understanding, competence and ability to be regulator. A mere review and perusal of the cases where SECP /KSE has penalized, issued warnings and relaxed this requirement for listed companies for independent director would substantiate and verify that if the requirement was not mandatory then why such actions were taken against these companies.

The preamble of the Securities and Exchange Ordinance 1969 provides that purpose of the ordinance is protection of investors, regulations of the markets and dealings in securities and the national interest of Pakistan in relation to the achievement of uniformity required by this legislation and similarly the preamble of SECP Act 1997 also state that SECP is created for the beneficial regulation of the capital markets, superintendence and control of corporate entities, so by virtue of this SECP is responsible for the mandate entrusted to it. Section 20 of the SECP Act defines the powers and functions of the SECP and Section 20(m) lays the burden on SECP for organized development of the capital market and the corporate sector in Pakistan. Under the same Section 20 clause (ha) read with (i), the SECP Act empowers the SECP to decide the investor complaints and conducting investigations in respect of matters related to this Act and the Ordinance. Similarly Section 20(6)(g) vests overarching powers to SECP to take whatever action it can take and, is necessary, in order to enforce and give effect to the Act, the ordinance or any other law Therefore, the Commission is fully empowered to address and redress the grievances of the investors and general public. The objective of citing the provisions is to remind you about the duties & responsibilities as a regulator and the powers vested in the SECP. However, SECP appears to failing in accomplishing the mandate vested in it.

The SBP as a regulator vide its letter dated August 2014, has asked SECP to take action against the JS Bank under the laws being administered by the SECP but till this point in time nothing has been done by SECP. The SBP categorically stated that in the case of bank (JS Bank) did not appear to have any representation of minority shareholders or institutional investors on its board rather in arrangement AGM provided sufficient reasons to believe that bank has discouraged the participation of minority shareholders even in the AGM.

But SECP even after lapse of more than two years has not only sat on it, but it appears that SECP is rather protecting the JS bank with all ill intentions. The SBP observation simply meant that when the 94% are employees of JS bank, the decision making at the AGM would be protecting





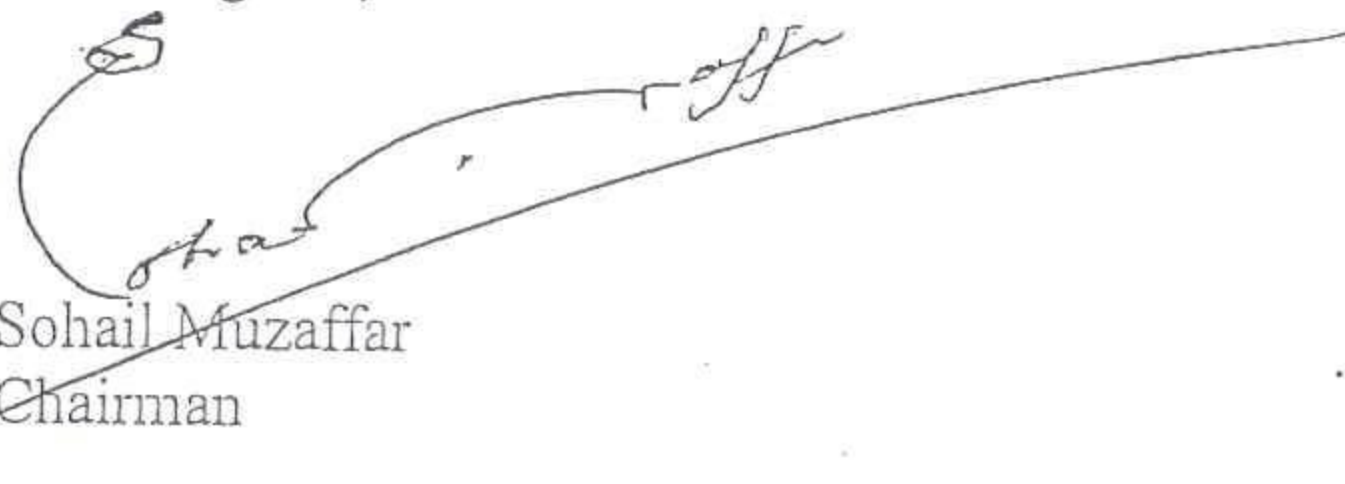
Such employees do not even meet the test of independence defined by the SECP in its own CCG. The SECP should have initiated the investigations to find out whether these 94% AGM attendants purchased shares for themselves and how, where placed, who are the brokers, who paid on their behalf, and where these shares were parked (in their own CDC account or lease) etc and the findings would have lead SECP to a conclusion but SECP is using all its energies to avoid such proceedings.

TIP is of the view that anyone who orchestrated crime and corruption, proof lies in the root and is always rotting.

The Chairman SECP and Governor State Bank of Pakistan are requested to check again the observations of SBP dated 29.8.2016 for the absence from JS Bank Board Director of minority shareholders or institutional investors and independent director and other observations about AGM threadbare, and about the SECP report dated 1.2.2014 on the manner of enhancing the paid up capital of the JS Bank through transfer of shares of JS Global Capital Limited and JS Investments Limited to JS Bank Limited valued at Rs. 1,686 million, a subsidiary of JSCL to meet the JS Balance minimum capital requirement, and take action as per SECP and SBP laws.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

With Regards,

  
Sohail Muzaffar  
Chairman

Encle: Attachments.

1. Secretary to Prime Minister, Islamabad
2. Chairman, NAB, Islamabad.
3. Chairman PMIC, Islamabad .
4. Registrar Supreme Court Pakistan, Islamabad





# Securities and Exchange Commission of Pakistan

Securities Market Division

Surveillance, Supervision and Enforcement Department

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SMD/SSD/OSW/MISC/05/2015

March 29, 2016

Mr. Sohail Muzaffar  
The Chairman  
Transparency International - Pakistan  
5-C, 2<sup>nd</sup> Floor  
Khayaban-e-Ittehad, Phase VII  
Defence Housing Authority  
Karachi  
Tel: 021-35390408

Subject: Complaint against SECP for not acting on State Bank of Pakistan instructions against JS Bank Limited

Dear Sir,

This is with reference to your letter dated February 27, 2015. In regard to point 4 and 5 of the aforementioned letter, the composition of the board of directors of JS Bank Limited (the "Bank") was examined in light of the requirements of the Code of Corporate Governance (the "CCG").

It is informed that the CCG has specifically used the term "encouraged" in regard to the representation of minority shareholders on the board of directors, which cannot be construed as a mandatory requirement.

Regards,

Hamid Javed  
Joint Director (SSD)





No. EMD/233/685/02/ 907

March 4, 2016.

Mr. Sohail Muzaffar  
The Chairman  
Transparency International - Pakistan,  
5-C, 2<sup>nd</sup> Floor,  
Khayaban-e-Ittehad, Phase VII,  
Defence Housing Authority,  
Karachi.  
Tel: 021-35390408

Dear Sir,

Subject: Complaint against SECP for not acting on State Bank of Pakistan instructions against JS Bank Limited

We acknowledge receipt of your complaint letter dated February 27, 2016 against SECP and JS Bank Limited (the "Bank").

Please note that we have taken up the matter regarding conduct of Annual General Meeting with the Bank and will get back to you in due course. As regards other aspects of your letter specifically para 2, 4 and 5 it is informed that para 2 falls within the ambit of State Bank of Pakistan, (copy of your letter is endorsed to Governor SBP) Point no. 4 and 5 of the said letter have been forwarded to Securities Market Division of SECP for necessary action, at its end.

Regards,

Haris Bin Mohsin  
Deputy Director  
Corporate Supervision Department





SECP

No. EMD/233/685/02/ 1000

March 21, 2016

Mr. Sohail Muzaffar  
The Chairman  
Transparency International - Pakistan,  
5-C, 2<sup>nd</sup> Floor,  
Khayaban-e-Ittehad, Phase VII,  
Defence Housing Authority,  
Karachi.  
Tel: 021-35390408

Dear Sir,

Subject: Complaint against SECP for not acting on State Bank of Pakistan instructions against JS Bank Limited

This is with reference to your complaint letter dated February 27, 2016 against SECP and JS Bank Limited (the "Bank").

2. With reference to your observation on the 7<sup>th</sup> Annual General Meeting (AGM) of the Bank held on 29.3.2013, I am directed to inform you that we have called and reviewed the relevant records from the Bank and have noted that 196 members representing 76.18% voting power were present in the said AGM. Your attention is invited to following provision of section 160 (2) of the Companies Ordinance 1984 which provides:

*"The quorum of a general meeting shall be—*

- a) in the case of a public [listed] company, unless the articles provide for a larger number, not less than [ten] members present personally, who represent not less than twenty-five per cent. of the total voting power, either of their own account or as proxies;"*

Moreover, as regards your other observations about the attendance of meeting by Bank employees who hold one share each; the matter has also been reviewed with reference to applicable legal provisions and it is informed that rights of members as regards attendance in general meetings are not effected by their shareholding percentage or their status like employee of the issuing company etc.

3. In view of above, no departure from the applicable legal provisions has been noted. It is hoped that this letter will address the concerns raised.

Regards,

Haris Bin Mohsin  
Deputy Director  
Corporate Supervision Department





# TRANSPARENCY INTERNATIONAL-PAKISTAN

27<sup>th</sup> February 2016

5-C, 2nd Floor, Khayaban-e-Ittehad, Phase VII,  
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Website: www.transparency.org.pk  
TL16/2702/1A

Mr. Zafar ul Haq Hijazi  
Chairman SECP,  
NICL Building,  
Islamabad

Sub: Complaint against SECP for not acting on State Bank of Pakistan instructions against JS Bank.

Dear Sir,

Transparency International Pakistan has received a complaint against SECP for not acting on State Bank of Pakistan instructions against JS Bank.

The complainant has made following allegations;

That

1. The JS Bank is not being operated in accordance with SECP and SBP rule and regulations.
2. According to SECP Report on Jahangir Siddiqui & Company Limited (JSCL) dated 2.1.2014; this is reported that to enhancing the paid up capital of the JS Bank Limited through transfer of shares of JS Global Capital Limited and JS Investments Limited to JS Bank Limited valued at Rs. 1,686 million, a subsidiary of JSCL to meet the JS Balance minimum capital requirement of Rs 10 Billion, which is against the SBP Rules.
3. The State Bank of Pakistan vide its letter Ni BPRD/CSMRP/15930/14 dated 29.8.2014, has advised/directed Chairman to take action on non-compliance of SECP Rules by JS Bank.
4. SBP has stated that SECP Code of Corporate Governance requires the banks to encourage the representation of minority shareholders on their boards.
5. But in case of JS bank it is observed that bank did not appear to have any representative of minority shareholders or institutional investors on its board, rather in arrangements of the above AGM provided the sufficient reasons to believe that bank has discouraged the participation of minority shareholders even in the AGM.

Note: The SECP Rules requires that the Board of Directors of each listed company includes at least one independent director representing institutional equity interest of a banking company, Development Financial Institution, Non-Banking Financial Institution (including a modaraba, leasing company or investment bank), mutual fund or insurance company;

For the purpose of this clause, the expression "independent director" means a director who is not connected with the listed company or its promoters or directors on the basis of family relationship and who does not have any other relationship, whether pecuniary or otherwise, with the listed company, its associated companies, directors, executives or related parties. The test of independence principally emanates from the fact whether such person can be reasonably perceived as being able to exercise independent business judgment without being subservient to any apparent form of interference.

6. Amid SBP regular inspection it was observed that in the 7<sup>th</sup> Annual General Meeting of JS bank held on 29-03-2013 total 196 (including 23 proxies) shareholders attended the AGM. 162 participants (94 %) who attended the AGM in person were employees of the bank who hold one share each.





TRANSPARENCY  
INTERNATIONAL-PAKISTAN

Continuation Sheet No.....

7. Similarly 11 shareholders holding 1 share each had the same address which was not a normal situation.
8. Further, SBP inspection team meeting with the four bank employees carrying shares of the bank also substantiated the unusual pattern of the AGM, as three of them informed that they have no idea whether any share was purchased on behalf of them.
9. One employee told that he purchased one share last year but did not recall the purpose and mode of purchase.
10. SECP should have taken action under Chapter V of Securities and Exchange Ordinance, 1969 to safeguard the interest of depositors who have deposited over Rs 60 billion in the bank.

The Chairman SECP is requested examine the complaint and the SBP letter, and if irregularities are confirmed and SBP letter is true, to take action under Securities and Exchange Ordinance, 1969.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

With Regards,

  
Sohail Muzaffar  
Chairman

Encl: Attachments.

1. Secretary to Prime Minister, Islamabad
2. Chairman, NAB, Islamabad.
3. Chairman PMIC, Islamabad.
4. Governor, State Bank of Pakistan, Karachi
4. Registrar Supreme Court Pakistan, Islamabad





STATE BANK OF PAKISTAN  
BANKING POLICY & REGULATIONS DEPARTMENT

1-1, Chundrigar Road, Karachi

No. BPRD/CSMRP/15930/14

August 29, 2014

The Chairman,  
Securities and Exchange Commission of Pakistan,  
National Insurance Corporation Building,  
Minar Avenue, Islamabad.

Dear Sir,

Observations Regarding 7<sup>th</sup> Annual General Meeting at JS Bank

We understand that SECP Code of Corporate Governance requires the banks to encourage the representation of minority shareholders on their boards. In case of JS bank, it is observed that bank did not appear to have any representative of minority shareholders or institutional investors on its board, rather in arrangements of the above AGM provided the sufficient reasons to believe that bank has discouraged the participation of minority shareholders even in the AGM.

Amid SBP regular inspection it was observed that in the 7<sup>th</sup> Annual General Meeting of JS bank held on 29-07-2013, total 196 (including 23 proxies) shareholders attended the AGM, 162 participants (94.96) who attended the AGM in person were employees of the bank who hold one share each. Similarly 11 shareholders holding 1 share each lived in the same address which was not a normal situation. Further, SBP inspection team meeting with the four bank employees carrying shares of the bank also substantiated the unusual pattern of the AGM, as three of them informed that they have no idea whether any share was purchased on behalf of them. One employee told that he purchased one share last year but did not recall the purpose and mode of purchase.

In light of the above unusual pattern relating to AGM and minority representation on the board of the JS bank, we expect SECP to look into these matters to probe down malafide intention, if any.

Yours truly,

  
(IRFAN ISMAIL)  
Additional Director



Adil NC+C.

(10)

**IN THE SUPREME COURT OF PAKISTAN, ISLAMABAD**  
(Original Jurisdiction) Regd. A.D.

HRC No. 14249-S/2013

Application: Syed Adil Gillani  
5-C, 2nd Floor, Khyaban-e-Ittehad, Defence Housing  
Authority, Karachi

To

The Chairman,  
National Accountability Bureau (NAB),  
Islamabad.

Take notice that in pursuance of the orders of HCJP on the above noted HR case, you are directed to furnish progress report. You are, therefore, required to do the needful on/or before August 30, 2014 .

Islamabad: August 12, 2014

  
Director  
Human Rights Cell  
Phone # 051-9220581/319  
Fax # 051-9219516