PART II

THE GAZETTE OF PAKISTAN

EXTRAORDINARY

PUBLISHED BY AUTHORITY

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Islamabad, the 19th September, 2013

NOTIFICATION

S.R.O. 812(I)/2013. In exercise of the powers conferred under section 167 (2) read with S.R.O. 708(I)/2009 dated 27th July 2009, the Securities and Exchange Commission of Pakistan is pleased to publish the following draft of the amendments in the Insurance Rules, 2002 notified vide SRO 498(I)/2002 dated 7th August, 2002 for the information of all persons likely to be affected thereby, and notice is hereby given that the draft will be taken into consideration after thirty days of its publication in the Official Gazette.

Any objections or suggestions which may be received from any person in respect of the said draft before the expiry of the aforesaid period shall be taken into consideration by the Securities and Exchange Commission of Pakistan.

DRAFT AMENDMENTS

In the aforesaid Rules,-

(1) After Rule 12, the following new rule 12A shall be inserted, namely:

"12A. **Exclusivity of insurance broking licence.— (1)** A licensed insurance broker shall exclusively carry on the business of insurance broking while any other business carried out by the same broker shall be strictly prohibited:

Provided that the licensed insurance broker, without giving rise to a potential conflict of interest, may have an ancillary businesses of insurance agency, insurance consultancy or insurance risk advisory."

(2) For the rule 13 the following shall be substituted:

"13. **Requirements for insurance broker's licence.— (1)** For the purposes of sub-section (3) of section 102 of the Ordinance, the following shall be the prescribed qualifications of a company for issuance of an insurance broker's licence, namely :—

(a) A minimum paid-up share capital of not less than thirty million rupees for an insurance broker to be registered in Pakistan:

Provided that existing licensed insurance brokers shall comply with enhanced requirements of the paid up capital as per the following schedule:

Minimum Paid-up Capital Requirement to be complied with by December 31of each of the following year by the existing insurance brokers		
2013	**2014**	**2015**
PKR 15 million	PKR 20 million	PKR 30 million

(b) cash or approved securities to the value of not less than five million rupees, deposited with the State Bank of Pakistan;

(c) professional indemnity insurance, to a limit of fifty million rupees for any one occurrence;

(i) The insurance cover must indemnify an insurance broker against:

(1) Any error or omission or negligence on his part or on the part of his employees and directors;

(2) Any loss of money or other property for which the broker is legally liable in consequence of any financial or fraudulent act or omission;

(3) Any loss of documents and costs and expenses incurred in replacing or restoring such documents;

(4) Dishonest or fraudulent acts or omissions by brokers' employees or former employees.

(5) The indemnity cover:

(a) Should be on a yearly basis for the entire period of license;

(b) Should not contain any terms to the effect that payments of claims depend upon the insurance broker having first met the liability;

(c) Should indemnify in respect of all claims made during the period of the insurance regardless of the time at which the event giving rise to the claim may have occurred.

(ii) The insurance policy should be obtained from any insurer registered with the Commission who has agreed to:

(1) Provide the insurance broker with an annual certificate containing the name and address, including but not limited to the policy number, the limit of indemnity, the excess and the name of the insurer as evidence that the cover meets the requirements of the Commission;

(2) Send a duplicate certificate to the Commission at the time the certificate is issued to the insurance broker; and

(3) Inform the insurance broker as well as the Commission immediately of any case of voidance, non-renewal or cancellation of cover.

(d) every registered insurance broker shall maintain a net asset value, which is total assets of the insurance broker over its total liabilities, of at least following percentages of their minimum paid-up capital, as per the following schedule:

1st Year of Business	**2nd Year of Business**	**3rd Year of Business**	**4th Year of Business and onwards**
50%	50%	70%	100%

Provided that existing insurance brokers shall comply with this requirement as per the above schedule from the date of coming into force of this provision.

Provided further that while determining the value of the assets owned by a company, any amount on account of goodwill or of any other intangible asset like deferred tax asset, shall be disregarded."

(3) After the rule 13 amended as aforesaid, the following new rule 13A shall be inserted, namely:

13A. **Fitness and propriety requirements for the Chief Executive and Directors of Insurance Brokers.- (1)** For the purposes of sub-section (3) of section 102 of the Ordinance, the following shall be the prescribed fitness and proprietary requirements for the Chief Executive and Directors of the insurance broker, a proposed director or chief executive of the insurance broker shall not assume the charge of office until their appointment has been approved by the Commission.

(2) The fitness and propriety of a person shall be assessed by taking into account all the relevant factors including but not limited to the following:

(a) In determining a person's integrity and track record, a person shall not be considered a Fit and Proper person if such person:

(i) has been convicted in criminal breach of trust, fraud, etcetera;

(ii) has been convicted of an offence involving moral turpitude;

(iii) has been subject to adverse findings, after conducting an inquiry, by the Commission or any other regulatory, judicial or professional body or any government agency or authority;

(iv) has been involved in the financial irregularities or malpractices in a Company due to which the registration or license of the Company has been revoked or cancelled or which has gone into liquidation or other similar proceedings;

(v) is ineligible, under the Companies Ordinance, 1984 or any other legislation from acting as a director; or

(vi) has entered into a plea bargain arrangement with the National Accountability Bureau or any other regulatory body.

(b) In determining a person's financial soundness, the following shall be considered:

(i) whether the person has been defaulter in repayment of loan to a financial institution, exceeding Rupees one million or defaulter of a stock exchange;

(ii) whether the person has applied to be adjudicated as an insolvent and his application is pending; or

(iii) whether the person is an un-discharged insolvent.

(c) In determining a person's competence and capability the following shall be considered:

(i) the chief executive must have a minimum educational qualification of:

(a) A bachelor's degree or equivalent from an institution recognized by the Higher Education Commission of Pakistan or foreign qualification of equivalent level recognized by the Higher Education Commission of Pakistan along with being Associate of the Chartered Insurance Institute, with at least 5 years of management cadre experience working with an insurer or an insurance broker; or

(b) A master's degree or equivalent from an institution recognized by the Higher Education Commission of Pakistan or foreign qualification of equivalent level recognized by the Higher Education Commission of Pakistan, with at least 5 years of management cadre experience working with an insurer or an insurance broker;

(ii) the Director must have at least five years' experience related to the business of insurance and must satisfy the Commission that the person has appropriate experience and knowledge to undertake the business of insurance broking.

(d) The chief executive or director of an insurance broker shall not:

(i) be a chief executive or director in any insurance surveyor, insurer or any other insurance broker by whatsoever name called; or

(ii) have any direct or indirect ownership or management interest or employment in any insurer or reinsurer or insurance surveyor or any other insurance broker or be a spouse of such persons or have blood relationship with such persons;

(e) After coming into force of these provisions, the insurance broker applying for a new license shall ensure that the person appointed as chief executive officer or director is in compliance with these provisions; however, the existing chief executive officer and directors of an existing insurance broker shall comply with these requirements as follows:

(i) the chief executive officer shall comply with the requirement of experience and education under the provision of 'Competence and capability' by December 31, 2014. However, all other provisions of Assessment and Propriety are required to be complied-with by the Chief Executives of the existing insurance brokers from the date of the notification of these requirements.

(ii) the existing directors of an insurance broker shall comply with these provisions before the commencement of their new term in the office, if any, as directors. "

(4) for rule 14 the following shall be substituted, namely:

"14. **Licensing of insurance brokers**.—(1) An application for grant of a licence or renewal of to act as an insurance broker shall, for the purposes of sub-section (4) or (5) of section 102 of the Ordinance, shall contain the following details in respect of the applicant, namely :—

(a) Registered name of the insurance broker;

(b) the address of its registered office;

(c) its postal address (if different);

(d) details of the insurance broking business to be carried out by the new insurance broker and in case of an existing insurance broker, details of the insurance broking business carried out during the last year including but not limited to the break-up of the revenue/income into reinsurance/insurance commission, brokerage commission, brokerage fees and details of any other revenue/income along with the detailed break-up of the expenses incurred;

(e) the names of insurance companies, if any, which have appointed the applicant as insurance agent along with the details of these arrangements;

(f) details of the pattern of shareholding of the issued share capital of the insurance broker; and

(g) for the purposes of Rule 13A above, details of the Chief Executive and Directors of the insurance broker and duly signed declaration in the form as set out in Annexure A and B, respectively;

(2) Every application made under sub-rule (1) shall be accompanied by a declaration by the applicant stating that-

(a) the information given by him in accordance with sub-rule (1) is complete and correct;

(b) he has complied with the requirements of the Ordinance and the rules made thereunder concerning the required qualifications of an insurance broker; and

(c) he undertakes to comply, and (in the case of an existing insurance broker) declares that he has during the previous twelve months complied with being the Ordinance and the rules made thereunder concerning the conduct of an insurance broker;

(3) The application under this rule shall be in writing and signed by at least two directors while the declaration required under this rule shall also be signed by at least two directors of the insurance broker on a stamp paper of appropriate value.

(4) Any application for issue of initial authorization to act as an insurance broker shall be accompanied by a fee of rupees two hundred thousand, which shall be refunded in full by the Commission if the authorization is not granted.

(5) An application for the renewal of authorization to act as an insurance broker shall be submitted to the Commission at least one month prior to the expiry of the licence and shall also be accompanied by a renewal fee of rupees two hundred thousand rupees or rupees two for every rupees one thousand of the gross revenue, without netting off any expenses, whichever is higher during the preceding financial year, subject to a maximum of rupees two million:

Provided that, if the application for renewal of license is received by the Commission later than the actual expiry date of the current license, an additional fee of rupees five thousand per day shall be payable by the applicant to the Commission.

(6) An insurance broker shall notify to the Commission of any change in the details required under sub-rule (1) immediately and not later than two weeks of that change having effect, such notification being in written form and signed by at least two directors of the body corporate."

(5) At the end, the following annexures A and B shall be inserted, namely:

"**Annexure-A**

Information to be provided

by proposed director and proposed chief executive of the insurance broker

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1.	Curriculum Vitae/Resume containing:
a	Name: (former name if any):
b	Father's or Husband Name:
c	C.N.I.C # (attach copy)
d	Nationality:
e	Age:
f	Contact details:
	i) Residential address:
	ii) Business address:
	iii) Tel:
	iv) Mobile:
	v) Fax:
	vi) E-mail:
g	National Tax Number:
h	Present occupation:
i	Qualification(s):
	i) Academic:
	ii) Professional:

j	Experience: (**Positions held during the last 10 years along with name and address of company/ institution)**
2.	**Nature of directorship** Executive ☐ Non-executive ☐ **Status of directorship** Nominee director ☐ Number of shares subscribed or held _____ Nominated by _____(name of shareholder)_____
3.	Names of companies, firms and other organizations of which the proposed person is a director, partner, office holder.
4.	In the case of appointment of directors the date of board of directors' meeting in which the appointment of proposed director was approved. (Attach copy of the minutes of the meeting of the board of directors. If the director is elected, then attach a copy of the minutes of the general meeting of the company.)

* Latest Photograph of the applicant must be attached

Signature _____

*use additional sheets if required

Annexure B

Declaration for the Purposes of Sub-rule (vii) of Rule 14 of the Insurance Rules, 2002

(On Stamp Paper of Appropriate Value)

I, _____ son/daughter/wife of _____ adult, resident of _____ and holding CNIC/ Passport No. _____ do hereby state on solemn affirmation as under:-

1. That I am eligible for the position of _____according to the Insurance Rules, 2002 for the position of _____ in _____.

2. That I hereby confirm that the statements made and the information given by me is correct and that there are no facts which have been concealed.

3. That I have no objection if the Securities and Exchange Commission of Pakistan requests or obtains information about me from any third party.

4. That I undertake to bring to the attention of the Securities Exchange Commission of Pakistan any matter which may potentially affect my status for the position of _____ as per the Insurance Rules, 2002.

5. That all the documents provided to Securities Exchange Commission of Pakistan are certified true copies of the originals.

_____

DEPONENT

The Deponent is identified by me

Signature _____

ADVOCATE

(Name and Seal)

Solemnly affirmed before me on this _____ day of _____ at _____ by the Deponent above named who is identified to me by _____, Advocate, who is known to me personally.

Signature_____

(Name and Seal)"

[File No. SECP/ID/Brokers/2013/17671]

S/d-

Secretary to the Commission