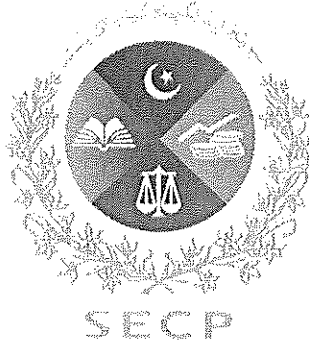


Guide Book on Corporate Governance and Frequently Asked Questions

June 5, 2020

Prepared under the Listed Companies (Code of Corporate Governance) Regulations, 2019



Disclaimers

This Guide Book on Corporate Governance prepared in light of the provisions of the Listed Companies (Code of Corporate Governance) Regulations, 2019 (the CCG Regulations) is not a legal document but prepared with the object to facilitate understanding and compliance with the corporate governance regime. While writing this Guide Book, it has been tried to make understanding of the CCG Regulations easier by highlighting responsibilities of the stakeholders, required reporting & disclosures requirements and respond to some basic queries which may arise while complying with various provisions of the CCG Regulations.

In case any further clarification is needed about the contents of this Guide Book including the queries written down herein or additional queries arise, the listed companies may refer to the CCG Regulations and relevant provisions of the Companies Act, 2017 (the Act), consult their legal advisors.

This Guide Book is prepared under the CCG Regulations, in case of listed Public Sector Companies (PSCs), if there is any inconsistency with any provision of the Public Sector Companies (Corporate Governance) Rules, 2013 (the Rules), the provisions of the Rules shall prevail, as specified in rule 1(4) thereof.

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CHAPTER I

Glossary of Acronyms		
S. No.	Acronym	Definition
1	AC	Audit Committee
2	Act	the Companies Act, 2017
3	AGM	Annual General Meeting
4	Auditor(s) or External Auditors	The Statutory Auditors
5	CEO	Chief Executive Officer
6	CFO	Chief Financial Officer
7	COO	Chief Operating Officer
8	CS	Company Secretary
9	CSR	Corporate Social Responsibility
10	DTP	Directors' Training Program
11	ED	Executive Director
12	ESG	Environmental, Social and Governance
13	FAQs	Frequently Asked Questions
14	Guide Book	The Guide Book on Corporate Governance and Frequently Asked Questions dated June 3, 2020
15	HEC	Higher Education Commission of Pakistan
16	HR&RC	Human Resource and Remuneration Committee
17	IBA	Institute of Business Administration, Karachi.
18	ICAP	Institute of Chartered Accountants of Pakistan
19	ICMAP	Institute of Cost and Management Accountants of Pakistan
20	ID	Independent Director
21	LUMS	Lahore University of Management Sciences, Lahore.
22	NBFC	Non-Bank Financial Company
23	NC	Nomination Committee
24	NED	Non-Executive Director
25	PICG	Pakistan Institute of Corporate Governance
26	PSC	Public Sector Company
27	PSX	Pakistan Stock Exchange Limited
29	QCR	Quality Control Review
30	RMC	Risk Management Committee
31	The CCG Regulations	the Listed Companies (Code of Corporate Governance) Regulations, 2019
32	The repealed Regulations	The Listed Companies (Code of Corporate Governance) Regulations, 2017 repealed on September 25, 2019 upon promulgation of the Regulations vide SRO. 1163(I)/2019 dated September 25, 2019.
33	The Rules	Public Sector Companies (Corporate Governance) Rules, 2013
34	SECP	Securities and Exchange Commission of Pakistan
35	SoC	Statement of Compliance
36	ToR	Terms of Reference

CHAPTER II

Corporate Governance

Corporate governance is the set of mechanisms, processes and relations by which companies are controlled and operated. It is now a familiar subject for commentary on corporate affairs. Company law provides the foundational rules about the way companies are to be governed and in that context corporate governance is best viewed through the prism of the law. Governance structures and principles identify the distribution of rights and responsibilities among different participants in the company (such as the board of directors, managers, shareholders, creditors, auditors, regulators, and other stakeholders) and include the rules and procedures for making decisions in corporate affairs.

Corporate governance is necessary because of the possibility of conflict of interest among the stakeholders, primarily between shareholders and senior management or among shareholders. There are also growing demands not always consistent with a system of corporate ownership predominantly based around delivering shareholders' value for corporate behaviors to recognize and even take a leadership position on wider environmental and social issues.

Corporate governance includes the processes through which company's objectives are set and pursued in the context of the social, regulatory and market environment. These include monitoring the actions, policies, practices, and decisions of the company, their agents, and affected stakeholders. Corporate governance practices can be seen as attempts to align the interests of stakeholders.

Corporate governance practices of public interest companies considered imperative, particularly in relation to accountability, increased high-profile collapses of a number of large corporations in 2001–2002, many of which involved accounting fraud; and then again after the global financial crises in 2008.

CHAPTER III

Comply or Explain Approach

Comply or explain is a regulatory approach used in the developed and some developing economies like UK, Germany, Netherland in the field of corporate governance and financial supervision. Rather than setting out binding laws, regulators set out a code, which listed companies may either comply with, or if they do not comply, then provide an explanation for not having done so. This approach is used in setting minimum standards for companies in their audit committees, remuneration committees and recommendations for how good companies should divide authority on their boards.

Effective standards of self-regulation can be achieved by reliance on the principle of "comply or explain". This approach relies on the expectation that compliance levels will be high and that any exceptions will be for good and cogent reasons.

Although, corporate governance as a concept had its origins prior to the late 1980's and early 1990's but till then it was not defined and scrutinized in a formal manner. Under the chairmanship of Sir Adrian Cadbury a committee on financial aspects of corporate governance was established in May 1991 on the initiative of the Financial Reporting Council, UK; the London Stock Exchange; and the accountancy profession. The subsequent Cadbury

Report (1992), was the result of a thorough review, and was a defining moment for corporate governance in the UK, which set out the tone for subsequent developments.

Mandatory Requirements:

These are requirements of the CCG Regulations that are construed to be strictly complied with by the company and non-compliance of such requirements leads to penal proceedings under regulation 37 of the CCG Regulations read with sub-section (2) of Section 512 of the Act.

Non-Mandatory Requirements:

These are requirements of the CCG Regulations that are not mandatory to be complied with. However, in case of non-compliance with such requirements, appropriate explanation is to be given by the company in SoC.

Explanation in case of Non-compliance:

Compliance with any of the non-mandatory requirements of the CCG Regulations is at discretion of the company whether to comply or not. In case any of the non-mandatory requirement is not complied with, explanation as to the impediments in its compliance or reason for such non-compliance must be explained in SoC.

The reasons may include concession already available in the CCG Regulations or any other law, impediments being faced by the company while complying with any particular non-mandatory requirement, compliance is not commercially viable, non-occurrence of the event requiring the company to comply with any of a particular non-mandatory requirement, etc. For guidance, some of the explanations are given as under:

S. No.	Non-Mandatory Requirement	Reg. No.	Possible Explanation
1	Diversity in the Board: The Board shall comprise of members having appropriate mix of core competencies, diversity, requisite skills, knowledge, experience, and fulfils any other criteria as deem relevant in the context of the company's operations.	4	Currently, 3/4 th of the board has the requisite qualification, experience and expertise. The balance 1/4 th members representing sponsoring shareholders will be replaced with fresh graduates from the family during next two years.
2	Representation of Minority shareholders: The minority members as a class shall be facilitated by the Board to contest election of directors by proxy solicitation.	5	(a). No one intended to contest election as director representing minority shareholders; or (b). The candidate failed to complete legal formalities within the prescribed time period.
3	Chairman of the Board: Chairman and CEO of a company shall not be the same person.	9	(a).The positions of chairman and CEO shall be given to two different persons after reconstitution of the current board; or (b). The Company is in a process of hiring a suitable individual for the CEO position.
4	Responsibilities of the Board and its members:	10(1)	Non- mandatory provisions of the CCG Regulations are partially complied. The Company

	Adoption of the corporate governance practices.		intends to fully comply with all the provisions by the end of year 2022.
5	Minutes of meeting: CS shall be secretary to the Board.	12 (2)	Currently, position of CS is held by CFO owing to the reason that CS has recently resigned and appointment of independent CS is in process which is to be finalized during next quarter.
6	Formal Policy: The Board shall have in place a formal policy and transparent procedure for fixing the remuneration packages of individual directors for attending meetings of the Board and its committees.	16	Currently, a formal policy is being prepared and will be finalized by next quarter.
7	Directors' Orientation: Acquainting the directors with the CCG Regulations, other applicable laws, their duties and responsibilities.	18	(a). All the directors are highly qualified and experienced; or (b). All the directors have DTP's certification; or (c) Two directors have been appointed to fill in the casual vacancies for the remaining term. The company will arrange their orientation in the next 2-3 months.
8	Requirement to attain certification: At least 75% of the directors have obtained DTP certification by June 30, 2021.	19	Currently, 2 directors have attained DTP certification. The company has planned to arrange DTP Certification for the remaining directors over the next 2 years. By the end of June 30, 2021 75% directors shall attain the said certification.
9	Qualification of chief financial officer	22	CFO has a Master's degree in Commerce and would be completing his 7 years' experience as CFO of the company next year.
10	Qualification of internal auditor	23	The head of internal audit of our company who does not meet the qualification criteria, as required under clause (iii) of regulation 23, but possess more than ten years of experience as head of internal audit in aggregate in listed companies out of which seven years with our company.
11	Financial statement endorsed by chief financial officer and chief executive officer: CEO and CFO shall duly endorse the quarterly, half-yearly and annual financial statements under their respective signatures prior to placing and circulating the same for consideration and approval of the Board.	25	Since, CEO was out of country/on vacation, therefore, the first quarterly financial statements were endorsed by (name) who is a member of the board and duly authorized by the board so to do.

12	Human Resource and Remuneration Committee: (1) There shall be a human resource and remuneration committee of at least three members comprising a majority of non-executive directors of whom at least one member shall be an independent director. (2) The chairman of the committee shall be an ID and the chief executive officer may be included as a member of the committee.	28 (1 & 2)	Currently, the Company has appointed all three NEDs on this committee and will be fully compliant next year after reconstitution of the board.
13	Nomination Committee: The Board may constitute a separate committee, designated as the nomination committee, of such number and class of directors, as it may deem appropriate in its circumstances.	29 (1)	(i) Currently, the board has not constituted a separate NC and the functions are being performed by the HR&RC; or (ii) The board intends to constitute NC next year after reconstitution of the board.
14	Risk Management Committee: The Board may constitute the risk management committee, of such number and class of directors, as it may deem appropriate in its circumstances, to carry out a review of effectiveness of risk management procedures and present a report to the Board.	30(1)	(i) Currently, the board has not constituted a RMC and the Company's Risk Manager performs the requisite functions and appraises the board accordingly. The board shall constitute RMC within next quarter; or (ii) The board intends to constitute RMC when the board is reconstituted.
15	Composition of internal audit function: The internal audit function, wholly or partially, may be outsourced by the company to a professional services firm or be performed by the internal audit staff of holding company and in lieu of outsourcing, the company shall appoint or designate a fulltime employee other than chief financial officer, as head of internal audit holding equivalent qualification prescribed under the CCG Regulations, to act as coordinator between firm providing internal audit services and the Board:	31 (6)	(i) (Name) is a graduate and has been serving in the accounts department for the last 16 years. He has been appointed to liaise between the internal audit and the board owing to the reason that he is well acquainted with the company's accounts; or (ii) The board intends to outsource the internal audit functions to a professional services firm of accountants.

	Provided that while outsourcing the function, the company shall not appoint its existing external auditors or any of its associated company or associated undertaking, as internal auditors.		
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CHAPTER IV

RESPONSIBILITIES

The CCG Regulations lay down certain responsibilities on the company, its board, directors, management and the statutory auditors etc. These responsibilities include the following:

4.1 **Responsibilities of the Company:**

Responsibilities of a listed company under the CCG Regulations include the following:

S. No.	Detail	Reg. No.
	The company shall ensure that:	
1	(i) its board comprises the required number of IDs, NEDs and female directors;	6,7 & 8
2	(ii) chairman of its board and its CEO are not be the same person;	9(1)
3	(iii) details of all related party transactions are placed periodically before its AC;	15
4	(iv) upon recommendations of AC, the aforementioned details are placed before the board for its review and approval;	15
5	(v) in case majority of the directors are interested in the aforementioned transactions, the matter is placed before the general meeting for approval;	15
6	(vi) orientation for their directors to acquaint them with the CCG Regulations, applicable laws, their duties and responsibilities has done;	18
7	(vii) by June 30, 2021, at least 75% of its directors shall have DTP certification;	19(1)
8	(viii) by June 30, 2022, all its directors shall have DTP certification;	19(1)
9	(ix) a newly appointed director shall acquire, where required, DTP certification within a period of one year from the date of his/her appointment;	19(2)
10	(x) necessary arrangements have been made for DTP certification by:	19(3)
	(a) at least one female executive every year since July 2020; and	19(3)
	(b) at least one head of department every year from July 2022.	19(3)
11	(xi) its CS meets the qualification criteria as specified under the Companies (General Provisions and Forms) Regulations, 2018;	24
12	(xii) its CS does not hold the position of CFO;	24
13	(xiii) there exists its internal audit function;	31(1)
14	(xiv) the head of internal audit is functionally reporting to AC and administratively to CEO;	31(2)
15	(xv) performance appraisal of head of internal audit is done jointly by chairman of AC and CEO;	31(2)
16	(xvi) no director of its board is appointed, in any capacity, in its internal audit function;	31(3)
17	(xvii) head of internal audit is suitably qualified, experienced and conversant with the company's policies and procedures;	31(5)

18	(xviii) head of its internal audit does not hold the position of CFO;	31(6)
19	(xix) in case of outsourcing the internal audit function, it has not appointed its existing external auditors or any of its associated company or associated undertaking, as internal auditors;	31(6)
20	(xx) internal audit reports are provided, for review, to the external auditors;	31(7)
21	(xxi) the auditors has discussed, where required, major findings, if any, in relation to the reports with AC;	31(8)
22	(xxii) the auditors has reported the matters of significance, if any, to the board;	31(8)
23	(xxiii) its external auditor:	32(1)
	(a) has a satisfactory rating under the Quality Control Review program of ICAP; and	32(1)
	(b) is registered with Audit Oversight Board of Pakistan under Section 36I of the Securities and Exchange Commission of Pakistan Act, 1997.	32(1)
24	(xxiv) the firm appointed as its auditors and any partner thereof are not non-compliant with IFACs' Guidelines on Code of Ethics, as adopted by ICAP;	32(2)
25	(xxv) it has not appointed its auditors to provided services in addition to audit; OR it has required its auditors to observe applicable guidelines of IFACs in this regard, in case it is appointed to provide any additional services;	32(4)
26	(xxvi) the auditors has not performed any management function or made any management decision, responsibility for which remains with the board and the management of the company;	32(5)
27	(xxvii) it has not appointed a person as an external auditor or a person involved in the audit of the company who is a close relative (spouse, parents, dependents and non-dependent children) of CEO, CFO, head of internal audit, CS, or a director of the company;	32(6)
28	(xxviii) it has required the external auditors to furnish a management letter to its board within 45 days of the date of audit report;	32(7)
29	(xxix) it has required the auditors that any matter deemed significant by it during the audit of the company shall be communicate, in writing, to the board prior to approval of the audited accounts by the board;	32(7)
30	(xxx) in case it is a financial sector's company (i.e. bank, NBFC, Modaraba, Insurer, or a Tatakaful company), it has changed its auditors every five years;	33(1)
31	(xxxi) in case it is a financial sector company, all inter related companies/ institutions, engaged in business of providing financial services have appointed the same firm of auditors to conduct the audit of their accounts;	33(1)
32	(xxxii) in case it is a company other than the financial sector, it has, at the minimum, rotated the engagement partner every five years;	33(2)
33	(xxxiii) in case it is a company other than the financial sector and its audit firm is a sole proprietorship then such audit firm has been changed, every five years;	33(2)
34	(xxxiv) directors' review report on affairs of the company is part of its quarterly financial statements;	34(1)
35	(xxxv) its annual financial statements contain details of remuneration of EDs and NEDs, including salary/fee, perquisites, benefits and performance-linked incentives etc.;	34(3)
36	(xxxvi) it has prepared SoC, setting out status of compliance with the requirements of the CCG Regulations, on the format as given at Annexure-A to the CCG Regulations;	36(1)

37	(xxxvii) in case of non-compliance with any of the Non-Mandatory provision / requirement, explanation(s) is provided in SoC on the format given at Annexure-I to this Guidebook;	36(1)
38	(xxxviii) it has explained: (a) in Annexure-I , the reason(s), for <u>not</u> rounding up the fraction, if any, while determining the number of IDs; and (b) in Annexure-I , the reason(s), for rounding up the fraction, if any, while determining the number of EDs;	6(1) 8(2)
39	(xxxix) SoC is made part of its annual financial reports;	36(1)
40	(l) SoC is reviewed and certified by its statutory auditors as per relevant CCG Regulations specified by Commission;	36(2)

4.2 **Responsibilities of the Chairman of the Board:**

Responsibilities of the chairman of the board of a listed company under the CCG Regulations include the following:

S. No.	Detail	Reg. No.
	The chairman shall:	
i.	ensure that he, while holding position of the chairman, has never held position of CFO of the company;	9(1)
ii.	be responsible for leadership of the board and ensure that the board plays an effective role in fulfilling its responsibilities.	9(2) read with Sec 192(3) of the Act.
iii.	prepare a review report on overall performance of the board and effectiveness of the role played by it in achieving the company's objectives and make sure that the report is annexed to every financial statement circulated under Section 223 of the Act.	Sec 192(4) of the Act.
iv.	at the beginning of the term of each director, issue letter to directors setting out their role, responsibilities, obligations, and powers in accordance with the Act and the company's Articles of Association, their remuneration and entitlements.	10(5)
v.	set agenda of the meeting of the board.	11(1)
vi.	ensure that reasonable time is available for discussion of the agenda.	11(1)
vii.	ensure that all the written notices and relevant material, including the agenda of the meeting is circulated at least seven days prior to the meeting, except in the case of emergency meeting.	11(2)
viii.	ensure that minutes of the meetings of the board are kept in accordance with the requirements of Section 178 and 179 of the Act.	12(1)

4.3 **Responsibilities of the Board:**

Responsibilities of the board of a listed company under the CCG Regulations include the following:

S. No.	Detail	Reg. No.
1	The board shall use the Comply or Explain approach wisely.	1(2)
2	The board shall facilitate minority members to contest election of directors by proxy solicitation as under:	5

	(i) annex to the notice issued under sub-section (4) of Section 159 of the Act, a statement by the candidate that he contests the election to the board;	5(i)
	(ii) annex to the aforesaid notice, profile of the candidate;	5(i)
	(iii) provide information regarding members and shareholding structure to the candidate(s);	5(ii)
	(iv) on a request by the candidate(s) annex to the aforesaid notice, an additional copy of proxy form duly filled in by the candidate(s); and	5(iii)
	(v) cost in the above matters shall be borne by the company.	5(ii)
3	The board shall, within 15 days of the election of directors, appoint its chairman.	9(2) read with Sec 192 of the Act.
4	The board shall defined responsibilities of its chairman and CEO.	Sec 192(2) of the Act.
5	Subject to the requirements of Sections 183 and 204 of the Act, the board shall adopt corporate governance practices by the company.	10(1)
6	The board shall monitor effectiveness of the corporate governance practices.	10(1)
7	The board is responsible:	-
	(i) for the governance of risk;	10(2)
	(ii) to determine the company's level of risk tolerance by establishing risk management policies; and	10(2)
	(iii) to undertake at least annually, an overall review of business risks to ensure that the management maintains a sound system of risk identification, risk management and related systemic and internal controls to safeguard assets, resources, reputation and interest of the company and shareholders.	10(2)
8	The board shall ensure that:	10(3)
	(i) a vision and/or mission statement monitoring the effectiveness of the company's governance practices and overall corporate strategy for the company is prepared, adopted and reviewed as and when deemed appropriate by the board;	10(3)(i)
	(ii) a formal code of conduct is in place that promotes ethical culture in the company and prevents conflict of interest in their capacity as member of the board, senior management and other employees;	10(3)(ii)
	(iii) the code of conduct is disseminated throughout the company along with supporting policies and procedures;	10(3)(ii)
	(iv) adequate systems and controls are in place for identification and redressal of grievances arising from unethical practices;	10(3)(iii)
	(v) a system of sound internal control is established, which is effectively implemented and maintained at all levels within the company;	10(3)(iv)
	(vi) a formal and effective mechanism is put in place for an annual evaluation of the board's own performance, members of the board and of its committees;	10(3)(v)
	(vii) complete record of particulars of the policies, mentioned in regulation 10(4) of the CCG Regulations, along with their dates of approval or updating is maintained by the company;	10(4)
	(viii) CFO and CS shall attend all meetings of the board except such meetings or part thereof wherein:	13

	(a) agenda item relates to consideration of their performance or terms & conditions of their service; and	13
	(b) when, in the opinion of the board, their presence in the meeting on any agenda item is likely or may tend to impair the organizational discipline and harmony of the company.	13
9	The board shall have in place a policy and procedure for fixing remuneration of individual directors for attending meetings of the board and its committees.	16
10	The board shall:	20
	(a) appoint CFO, CS, and head of internal audit of the company;	20
	(b) determine remuneration, and terms & conditions of the employment of CFO and CS;	20
	(c) renew employment contracts of CFO and CS;	20
	(d) constitute AC comprising of at least 3 NEDs including at least 1ID, with its chairman as ID who shall not be chairman of the board. At least 1 member of AC must be financially literate;	27(1)
	(e) determine ToRs of AC which shall also include the ones as mentioned in regulation 27(4) of the CCG Regulations.	27(3) & (4)
	(f) provide adequate resources and authority to AC to enable it to carry out its responsibilities effectively;	27(4)
	(g) ensure that ToRs of AC are documented;	27(4)
	(h) constitute HR&RC comprising of at least 3 members majority of whom must be NEDs including at least 1ID. Chairman of HR&RC must be ID. CFO of the company may be included as one of the members of HR&RC.	28(1) & (2)
	(i) determine ToRs of HR&RC which may include the ones as mentioned in regulation 28(6) of the CCG Regulation;	28(6)
	(j) define, "the Senior Management", which shall normally include the first layer of management below CFO;	28(6)(i)
	(k) made a statement in the directors' report to be annexed to the financial statements disclosing therein name and qualifications of external independent consultant appointed, if any, for evaluation of performance of the board and its committees;	28(6)(ii)
	(l) ensure that, in order to cover all major heads of accounts maintained by the company, the internal audit team comprises of experts of relevant disciplines;	31(4)
	(m) recommend appointment of the auditors for a year and its remuneration, as suggested by AC;	32(3)
	(n) the recommendations mentioned above are included in the Directors' Report;	32(3)
	(o) in case the recommendations mentioned above are for appointment of an auditor other than the retiring auditor, the reasons for the same is included in the Directors' Report.	32(3)
	(p) arranged DTP for directors and executives;	19(1) & (3)

4.4 **Responsibilities of the Chief Executive Officer:**

Responsibilities of CEO of a listed company under the CCG Regulations include the following:

S. No.	Detail	Reg. No.
	CEO shall ensure that:	
(i)	he, while holding position of CFO, has never held position of the chairman of the board of the company;	9(1)

(ii)	he has placed significant issues, as stated in regulation 14 of the CCG Regulations, for information, consideration and decision, as the case may be, of the board or its committees as and when needed;	14
(iii)	he has endorsed the quarterly, half-yearly and annual financial statements under his signature, prior to placing and circulating the same for consideration and approval of the board;	25
(iv)	he has got the annual and interim financial statements, both standalone and consolidated, where applicable, initiated from the external auditors before presenting the same to AC and the board for approval;	26
(v)	being CEO, he has never been member of AC;	27 (2)(iii)
(vi)	whenever called by chairman of AC, he has attended meeting of AC;	27 (2)(iii)
(vii)	head of internal audit has administratively reported to him;	31(2)
(viii)	performance appraisal of head of internal audit has been done jointly by him and chairman of AC; and	31(2)
(ix)	he is not close relative (spouse, parents, dependents and non-dependent children) of the external auditors or a person involved in the audit of the company.	32(6)

4.5 Responsibilities of the Chief Financial Officer:

Responsibilities of the CFO of a listed company under the CCG Regulations include the following:

S. No.	Detail	Reg. No.
	CFO shall ensure that:	
(i)	he has attended all meetings of the board except those as stated in the proviso to regulation 13 of the CCG Regulations;	13
(ii)	he meets the educational qualification and experience, for the position of CFO, as stated in regulation 22 of the CCG Regulations;	22
(iii)	he has not held office of CFO and CS simultaneously;	24
(iv)	he has endorsed the quarterly, half-yearly and annual financial statements under his signature prior to placing and circulating the same for consideration and approval of the board;	25
(v)	he has got the annual and interim financial statement, both standalone and consolidated, where applicable, initiated from the external auditors before presenting the same to AC and the board for approval;	26
(vi)	being CFO, he has never been member of AC;	27(2)(iii)
(vii)	whenever called by chairman of AC, he has attended meeting of AC;	27(2)(iii)
(viii)	he is not close relative (spouse, parents, dependents and non-dependent children) of the external auditors or a person involved in the audit of the company.	32(6)

4.6 Responsibilities of the Company Secretary:

Responsibilities of the Company Secretary of a listed company under the CCG Regulations include the following:

S. No.	Detail	Reg. No.
	CS shall ensure that:	

(i)	he has appended the dissenting note to the minutes of the board's meeting, in case such a note is referred to him by any of the directors;	12(3)
(ii)	he in person or through his nominee, in his absence, has attended all meetings of the board held during the financial year of the company, except those as stated in the proviso to regulation 13 of the CCG Regulations;	13
(iii)	he holds the qualification, for the position of CS, as specified under the relevant Regulations of the Commission i.e. regulation 22 of the Companies (General Provisions and Forms) Regulations, 2018;	24
(iv)	he has not held office of CS and CFO simultaneously; and	24
(v)	he is not close relative (spouse, parents, dependents and non-dependent children) of the external auditors or a person involved in the audit of the company.	32(6)

4.7 **Responsibilities of the Audit Committee:**

Responsibilities of the Audit Committee of a listed company under the CCG Regulations include the following:

S. No.	Detail	Reg. No.
	AC shall ensure that:	
(i)	it has appointed its secretary i.e. secretary of AC;	27(1)(iv)
(ii)	Secretary of AC is CS/head of internal audit;	27(1)(iv)
(iii)	AC has held at least one meeting every quarter of the financial year prior to approval of interim results of the company by its board and after completion of external audit;	27(2)(i)
(iv)	as and when requested by the auditors, head of internal audit or by chairman of AC, meeting of AC has been held;	27(2)(ii)
(v)	head of internal audit, and external auditors represented by engagement partner or in his absence any other partner designated by the audit firm have attend all such meetings of AC at which issues relating to accounts and audit were discussed;	27(2)(iii)
(vi)	CEO and CFO are not members of AC;	27(2)(iii)
(vii)	CEO and CFO have always attended its meetings as and when invited by the chairman of AC;	27(2)(iii)
(viii)	at least once in the financial year of the company, AC has met with the <u>external auditors</u> without CFO and the head of internal audit being present; and	27(2)(iii)
(ix)	at least once in the financial year of the company, AC has met with the <u>head of internal audit</u> and other members of the internal audit function without CFO and the external auditors being present.	27(2)(iii)

4.8 **Responsibilities of the Secretary of the Audit Committee:**

Responsibilities of the Secretary of the Audit Committee (AC) of a listed company under the CCG Regulations include the following:

S. No.	Detail	Reg. No.
	The Secretary of AC shall ensure that:	
(i)	he has circulated minutes of all meetings of AC to all members of AC, directors, head of internal audit and, where required, to CFO, prior to the next meeting of the Board.	27(5)

4.9 Responsibilities of the Statutory Auditors:

Responsibilities of the Statutory Auditors (the auditor) of a listed company under the CCG Regulations include the following:

S. No.	Detail	Reg. No.
	The auditor shall ensure that:	
(i)	the annual and interim financial statements, both standalone and consolidated, where applicable, are initiated by the officer(s) authorized by it, to do so, before presenting the same to AC and the board for approval;	26
(ii)	its engagement partner and, in his absence, other partner, as designated to do so, has attended all such meetings of AC at which issues relating to accounts and audit of the company were discussed;	27(2)(iii)
(iii)	it has discussed, major findings in relation to the internal audit reports, with AC;	31(8)
(iv)	it has maintained, throughout the financial year of the company, a satisfactory rating under QCR program of ICAP;	32(1)
(v)	it is and has remained registered with Audit Oversight Board of Pakistan under Section 36I of the Securities and Exchange Commission of Pakistan Act, 1997;	32(1)
(vi)	it and all its partners have remained compliant with IFACs' Guidelines on Code of Ethics, as adopted by ICAP;	32(2)
(vii)	whenever it is appointed by the company to provide services in addition to the audit, it has always observed and adhered to the applicable IFACs' Guidelines in this regard;	32(3)
(viii)	as auditor, it has never performed management functions or made management decisions in the company;	32(5)
(ix)	it, its partner(s), or its officers remained involved in the audit of the company are not close relative (spouse, parents, dependents and non-dependent children) of CEO, CFO, the head of internal audit, the company secretary or any of the directors of the company;	32(6)
(x)	it has furnished management letter to the board of the company, within 45 days of the date of audit report;	32(7)
(xi)	it has communicated, in writing, to the board all matters deemed significant by it, prior to the approval of the audited accounts by the board;	32(7)
(xii)	it has reviewed and certified SoC as per the relevant Regulations specified by the Commission; and	36(2)
(xiii)	it has highlighted, in its review report, all the non-compliance(s) with the CCG Regulations.	36(3)

CHAPTER V

Reporting and Disclosures

Reporting:

S. No.	Detail	Regulation
1	The quarterly financial statements of the company shall accompanied by the directors' review report on the affairs of the company.	34(1)
2	The directors report must contain the following:	34(2)
	(i) total number of director bifurcated as male and female.	34(2)(i)

	(ii) composition of the board showing gender and class as ID, NED & EDs.	34(2)(ii)
	(iii) names of the members of the board's committees.	34(2)(iii)
	(iv) remuneration policy of NEDs including IDs, as approved by the Board, alongwith its significant features and elements.	34(2)(iv)

Disclosures:

S. No.	Detail	Regulation
1	The company, in its annual report, shall disclose details of aggregate amount of remuneration separately of EDs and NEDs, including salary/fee, perquisites, benefits, performance-linked incentives etc.	34(3)
2	The company in SoC, on the format attached at Annexure A to the CCG Regulations, which is to be made part of its annual report shall disclose the following:	
	(1) status of compliance with each provision of the CCG Regulations;	36(1)
	(2) explanation, in case of non-compliance with any of the Non-Mandatory provisions;	36(1)
	(3) certification by the statutory auditors of the company that SoC is reviewed by them; and	36(2)
	(4) Highlighting, by the statutory auditors in their review report, the non-compliances, if any, by the company with any of the provisions of the CCG Regulations.	36(3)
3	The company shall post the following on its website:	35
	(1) key elements of its significant policies including but not limited to the following:	35(1)
	(i) communication and disclosure policy;	35(1)
	(ii) code of conduct for members of board of directors, senior management and other employees;	35(1)
	(iii) risk management policy;	35(1)
	(iv) internal control policy;	35(1)
	(v) whistle blowing policy;	35(1)
	(vi) CSR, ESG, and Sustainability policies.	35(1)
	(2) brief synopsis of ToRs of the Board's committees including:	35(2)
	(i) AC;	35(2)
	(ii) HR & RC;	35(2)
	(iii) NC; and	35(2)
	(iv) RMC.	35(2)
	(3) key elements of the directors' remuneration policy.	35(3)

CHAPTER VI

FREQUENTLY ASKED QUESTIONS

A. Directors and Board Composition

Question 1: Can an executive director or CEO already serving on the board of listed company, be appointed as ID on the board of another listed company?

Response: Yes, provided the criteria of independence stated in sub-section (2) of Section 166 of the Act is not breached and such appointment does not lead to generate cross directorship. Cross-directorship exists when an individual A is NED on the board of Company X and ED on the board of Company Y, and an individual B is ED on the board of Company X and NED on the board of Company Y.

Illustration:

	Individual A	Individual B
Company X	NED/ID	ED
Company Y	ED	NED/ID

Question 2: In a board of 7, what will be the composition as per the criteria laid down in the CCG Regulations?

Response: If there are 7 directors on the board of a listed company, the composition of the board, in terms of regulations 6, 7 and 8 of the CCG Regulations, must be as under:

S. No.	Type of Directorship	No.
i.	IDs	At least 3 (May be 2 provided reason for not rounding up the fraction 0.33 to 1 is explained in the compliance report).
ii.	Female director	At least 1 (May be independent, executive or non-executive director).
iii.	Executive Directors including CEO	Not more than 2 (May be 3 provided reason for rounding up the fraction 0.33 to 1 is explained in the compliance report).
iv.	Seventh Director	The 7 th director may be the independent or non-executive director
	Total:	07

Question 3: What is the difference between an executive and a non-executive director?

Response: In terms of regulation 8 (2) of the CCG Regulations, executive director means a director who devotes the whole or substantially the whole of his time, whether paid or not, to the operations of

the company. Generally, executive directors are the working, whole-time directors of a company. Non-executive directors, on the other hand, are those who are not from among the executive management team and may or may not be independent. An executive director cannot be categorically defined as a, "paid director" and a non-executive director as one who is "not a paid director". The guiding principle in distinguishing between executive and non-executive directors is the extent of their involvement in managing affairs of the company rather than their monetary interests.

Question 4: What will be the status of a director who does not devote the whole or substantially the whole of his time but is paid by the company?

Response: In terms of explanation II to regulation 8 of the CCG Regulations, a person who does not devote the whole or substantially the whole of his time, can't be considered/treated as Executive Director, irrespective of the fact whether he is paid or not.

Question 5:

- (i) Under regulation 6 of the CCG Regulations, it is mandatory that each listed company shall have at least 2 or 1/3rd of the board's members, whichever is higher, as IDs. A listed company shall explain the reasons, in SoC, if any fraction, contained in calculating number of IDs, is not rounded up as one.
- (ii) For the purpose of electing IDs, the board shall be reconstituted not later than expiry of its current term.

In view of the above, we understand that the abovementioned regulation shall be applicable on the reconstitution of the board after the expiry of its current term. Therefore, before reconstitution of the board, if any fraction contained in such 1/3rd number is not rounded upward, no explanation would be required in SoC and we would be compliant of the above said regulation 6. Kindly confirm our understanding.

Response: Please note that the CCG Regulations are effective from the date of their notification i.e. September 25, 2019. All the listed companies are required to ensure:

- (i) compliance with the CCG Regulations with effect from September 25, 2019; and
- (ii) that SoC for the year ended September 30, 2019 and onward, are prepared in accordance with regulation 36 of the CCG Regulations.

If the board is elected prior to September 25, 2019 and IDs are 2 in a board of 7 members, then the company has to explain the reason of not rounding the fraction 0.33 upward as required under regulation 6(1) of the CCG Regulations.

Question 6: What parameters must be considered for nominating IDs under Section 166 of the Act and the CCG Regulations?

Response: While selecting a candidate from the data bank of PICG, for electing as ID, it must be considered that:

- (i) the provisions of Section 166 of the Act read with Section 159 thereof are complied with; and
- (ii) the candidate has no association and relations (employment, family and business relationship, shareholding other than minimum shareholding required for directorship i.e. qualification shares and any other relation that lead to conflict of interest), directly or indirectly, with the company, its associates, sponsors, substantial shareholders and directors; and has the capabilities to take independent decisions.

Some of the circumstances that may affect independence of a director are stated in Section 166 of the Act, however, the circumstances stated therein are not conclusive. Hence, companies and individuals must be vigilant towards any transaction, relationship or conduct that may impede independence under the Act.

Question 7: Should an individual intending to contest election for the position of an ID be a member of the company for which he is contesting the election?

Response: Yes, an individual intending to contest election as an ID must meet the eligibility criteria provided in Section 153 and 166 of the Act.

In terms of the provisions of Section 153 and 166 of the Act, an ID shall be a member, however such member shall, in addition to tests and circumstances of independence as stated in Section 166 of the Act, not hold more than 10% of the shares of the company. Therefore, the requirements of being member shall be fulfilled by prior to contesting elections.

In this regard, companies shall facilitate the contesters by making amendment in their respective Articles of Association regarding qualification shares, where required.

Further, the statement of material facts annexed to the notice of general meeting called for the purpose of elections shall contain brief profile of the person(s) contesting election as ID. Moreover, it shall be responsibility of the Chairman of the meeting to inform all members in attendance of the mandatory requirement of electing IDs. Chairman shall also ensure that IDs are elected during the general meeting and specific slot(s) for IDs shall not be filled-up with unqualified nominees.

Question 8: For how many terms an ID shall remain independent?

Response: There is a nine-year rule of independence. An ID shall remain independent for maximum 3 consecutive terms. In terms of Section 166(2)(g) of the Act, an ID shall cease independence if he served on the board for more than 3 consecutive terms from the date of his first appointment, however, such person may be deemed independent after a lapse of one term.

Question 9: If an ID fills casual vacancy and holds office till conclusion of the remaining term, will his remaining term be considered a complete term?

Response: The Act has used the word term and not number of years. In terms of Section 161 (2) of the Act, a director filling casual vacancy shall hold office till end of the remaining term. This implies that in case of casual vacancy, regardless of remaining number of days/months/years, such remaining term shall be considered as a complete term. Accordingly, an ID filling casual vacancy, may have two more consecutive terms in that particular company. Similarly, if an ID resigns or vacates office of director before the next election of the board, he may have two more consecutive terms in that particular company.

Question 10: Is chairman of the board of a listed company required to be a non-executive director?

Response: Yes, Section 192 of the Act requires that the board of a listed company shall within fourteen days from the date of election of directors, appoint its chairman from among the non-executive directors.

Question 11: Please advise on the following matters regarding election of directors:

- (i) What is the procedure for election of IDs? Section 166(3) of the Act stipulates that IDs shall be elected in the same manner as other directors are elected u/s 159 of the Act. If we want to elect 7 directors in AGM, 2 among them should be independent. The company has chosen 2 IDs from PICG's databank, these 2 IDs candidates have nominal shares i.e., they don't have strength of voting rights, what if they could not obtained winning number of votes, then how can management of the company will make sure ID's appointment?
- (ii) If the nomination received from 3 IDs and we need to appoint 2 from them, then whether we should conduct election of IDs separately i.e. to count votes among those 3 candidates and 2 highest vote takers shall be elected? While rest of the 5 directors will be elected separately? i.e., whether highest number of votes among those 5 directors would be counted separately or not? i.e., regardless of votes obtained by the IDs?
- (iii) Same is the case with 1 female director, what would be the procedure for that?
- (iv) If a person who is not a member, filed consent for the intention to contest election of director, the intention received 14 days before the AGM, whether he is eligible for the election or not? Moreover, if this person becomes a member after filing of his nomination i.e., become a member less than 14 days before the meeting, whether he would be eligible to contest election for the directorship or not?

Response:

- (i) It is important to note that it is responsibility of the major shareholder (s) to ensure casting of votes in such a manner that IDs and female director are elected in the election conducted in a manner as provided in Section 159 of the Act.
- (ii) No separate election is needed for electing directors against each quota. All the required number of directors against each quota can be elected provided the procedure mentioned in clause (i) above is followed.
- (iii) As stated in clause (ii) above.
- (iv) A person who intends to contest election of directors on the board of a company must be member of such company except in the cases as mentioned in Section 153 of the Act.

Question 12: A listed company has fixed the number of directors to be elected in general meeting as 8 and 9 candidates are contesting election including 2 IDs. Section 166 of the Act stipulates that, IDs of a listed company shall be elected in the same manner as other directors are elected in terms of Section 159 of the Act. If at the election of directors, an ID does not get elected as director and only 1 ID is elected and 7 non-independent directors are elected, in such a case how will the company can comply with the requirements of regulation 6 of the CCG Regulations which requires that, a listed company shall have at least 2 or 1/3rd members of the board, whichever is higher, as IDs?

Response: Please note that in the board of 8 members, preferably number of ID must be 3. Two IDs may be elected provided reasons for not rounding up the fraction 0.67 upward. With respect to your query for procedure of electing IDs and non-IDs simultaneously, please follow the procedure explained in response to query No. 11 above.

Question 13: If we have to appoint 1/3rd IDs off the total 7 members' board, whether the following composition fully complies the law?:

- (i) Independent Directors: 2
- (ii) Other Directors: 5
- Total: 7

Response: In case of 7 members' board, ideally IDs must be 3. However, if the fraction 0.33 ($7/3=2.33$) is not rounded upward, then the company can elect 2 IDs provided the reason for not rounding the fraction 0.33 upward is explained by the company in SoC. [regulation 6(1) of the CCG Regulations];

Provided further that requirements w.r.t. appointment of female director is fulfilled and restrictions w.r.t. executive directors are not breached.

Question 14: In case position of the chairman of the board of a listed company is vacated due to any reason, then in how many days from the date of such vacation, the board shall appoint new chairman.

Response: In terms of Section 192 of the Act, chairman of the board of a listed company is appointed, among the non-executive directors, by the board within 14 days of the election of directors. In case position of the chairman of the board is vacated, the remaining board members should appoint one of the directors as chairman as soon as possible but not later than 14 days.

Question 15: If in a company, CEO is not an elected director; however, pursuant to the provisions of the Act, he will be deemed as director. Now for the purpose of calculating number of IDs i.e. $1/3^{\text{rd}}$ of total number of directors; whether CEO will be included as a director?"

Response: Yes, for the purpose to determine number of IDs, CEO of the company is included in the list of directors. The reason being that u/s 188(3) of the Act, CEO shall if he is not already a director of the company, be deemed to be its director.

Question 16: Is there any requirement of evaluation of the board's performance?

Response: Yes, in terms of regulation 10(3)(v) of the CCG Regulations, the board of directors shall ensure that a formal and effective mechanism is put in place for an annual evaluation of the board's own performance and for performance of the members of the board and of its committees.

B. Directors Training

Question 17: Is DTP Certification mandatory for directors of listed companies?

Response: In terms of regulation 19 of the CCG Regulations, DTP Certification is non-mandatory. It is, however, encouraged that by June 30, 2022 all the directors on the board of each listed company has acquired DTP Certification.

Question 18: Where from DTP Certification can be obtained?

Response: DTP Certification may be obtained from any of the institutions notified by SECP for imparting directors Training Programs. So far SECP has notified the following institutions for imparting DTPs:

- (a) Pakistan Institute of Corporate Governance (PICG), Karachi.
- (b) Institute of Chartered Accountants of Pakistan (ICAP), Karachi.
- (c) Institute of Cost and Management Accountants of Pakistan (ICMAP), Karachi.
- (d) Institute of Business Administration (IBA), Karachi.
- (e) Lahore University of Management Sciences (LUMS), Lahore.

Question 19: Is there any formal requirement to attend DTP Certification in the current year?

Response: DTP Certification is a non-mandatory requirement. However, under regulation 19 of the CCG Regulations it is classified as a requirement which is encouraged. It is, therefore, advised that a newly appointed director obtains DTP Certification as soon as possible.

- Question 20:** Can a DTP Certification obtained some years ago say 5 years or earlier be claimed valid by the management to meet compliance with regulation 19 of the CCG Regulations?
- Response:** Yes, provided the course contents, duration of the course and the institute imparting DTP Certification meets the requirements specified by SECP (**Annexure-II**).
- Question 21:** For the purpose of directors training, the CCG Regulations encourages to acquire prescribed certification under any director training program offered by institutions, local or foreign, that meet the criteria specified by the Commission. One of our directors has completed a similar course for directors of listed companies organized by a foreign institute. The course is mandatory requirement for directorship on the board of a listed company in the country of the institute. My question is to please confirm whether the certification obtained from the said foreign institute meets the requirements of the CCG Regulations?
- Response:** A DTP Certification obtained from a foreign institution may be accepted provided the program meets the requirements of the criteria attached herewith as **Annexure-II**.
- Question 22:** If a foreign director on the board of a listed company has already participated in a directors' training program abroad, does he still require to attend the orientation?
- Response:** Yes, under regulation 18 of the CCG Regulations, all the listed companies are required to arrange orientation for all their directors, (local and foreign), to acquaint them with the CCG Regulations, applicable laws, their duties and responsibilities to enable them to effectively govern the affairs of the listed company for and on behalf of the shareholders. The orientation must cover information about the company and its business as well as the relevant governing laws, rules and regulations.
- Question 23:** What would be the consequences, if all directors on the board of a company do not acquire DTP certification by June 30, 2022?
- Response:** Obtaining DTP certification by all the directors of a company by June 30, 2020 is off course an essential requirement under regulation 19 of the CCG Regulations but it is non-mandatory. Till this requirement is met, the company shall explain in SoC the impediments hindering compliance with this requirement.
- Question 24:** Who is exempted from DTP?
- Response:** A director having minimum 14 years of education and 15 years' experience on the board of a listed company, local and/or foreign, is exempted from DTP Certification, under regulation 19(2) of the CCG Regulations.
- Question 25:** How much fee, does SECP charge for processing an application for seeking relaxation from the requirements of DTP Certification?
- Response:** Since, DTP Certification is not mandatory, therefore, no relaxation is needed. Relaxation from only mandatory requirements can be applied for and considered by SECP under regulation 38 of the CCG Regulations.

C. Management

Question 26: Can same person be appointed as the CFO and CS of a listed company?

Response: No. In terms of regulation 24 of the CCG Regulations, same person cannot simultaneously holds office of CFO and CS in a listed company. The terms of reference of the two positions are distinct, therefore, separate persons should handle the functions of CFO and CS within a listed company.

Question 27: Can the positions of CS and Internal Auditor be given to same person within a listed company?

Response: Although, the CCG Regulations do not prohibit a listed company to assign the positions of CS and Internal Auditor to same person, but keeping in view the fact that the positions of CS and Internal Auditor carry different functions, therefore, the said functions preferably be performed by separate persons. Further, appropriate steps should be taken by the board to ensure that additional workload should not affect quality of the work performed by such person and appropriate mechanism is in place to address issues relating to conflict of interest that may arise as a result of holding the said two positions by same person.

Question 28: Can a fulltime employee, including CFO and CS, of a listed company holds similar position in an unlisted group company?

Response: The CCG Regulations do not restrict any full time employee in a listed company from working at a similar position in an unlisted group company. However, appropriate steps should be taken by the board of directors of the companies concerned to ensure that additional workload should not affect the quality of work performed by such employee and no conflict of interest arises as a result of holding similar positions in two group companies.

Question 29: Should CFO or head of Internal Audit have prior experience in public practice or managing corporate/financial affairs, in a listed company?

Response: Although prior experience in listed company is not mandatory, however, keeping in view the essence of best practices, it is preferred that companies appoint such individual who have experience of working in finance or audit departments of a listed company.

Question 30: Can an individual who has graduated from a foreign university with an equivalent degree be considered as a postgraduate or equivalent for appointment as a CFO or head of Internal Audit?

Response: The educational qualification requirements for CFO and Internal Auditor of a listed company are provided in regulation 22 and 23, respectively, of the CCG Regulations. The equivalency of an educational qualification is granted by HEC. The company, before appointing CFO or Internal Auditor, must ask the candidate to provide equivalency certificate from HEC. The educational qualification, once verified by HEC, is sufficient for the purpose of CCG Regulations.

Question 31: If a person has no practical experience in Pakistan in handling finance, accounts and audit, could such a person be considered for appointment as CFO or head of internal audit of a listed company in Pakistan?

Response: An applicant having requisite years of experience in the fields of finance, corporate laws or audit related matters, inside or outside Pakistan, may be considered as eligible for appointment as CFO or head of Internal Audit. However, suitability of the candidate for appointment as CFO or head

of Internal Audit, qualification and experience as provided in regulations 22 and 23 of the CCG Regulations have to be met.

Question 32: Should evaluation of the board performance be undertaken in-house or outsourced to any external consultants?

Response: Annual evaluation of the board's performance can be undertaken either in-house directly or by engaging external independent consultants and if so appointed, a statement to that effect shall be made in the directors' report disclosing name, qualifications and major terms of such appointment. The only condition for such appointment is to ensure that the person(s) appointed carry out the evaluation objectively and independently.

D. Committees

Question 33: Can AC be constituted with 3 members? What will be the quorum of meeting of AC of 3 members? Can meeting of AC be convened with 2 members being present?

Response:

- (i) Yes, in terms of regulations 27(1)(i) of the CCG Regulations, AC must comprise of at least three members, comprising of NEDs and at least one ID.
- (ii) Although, not specifically mentioned in the CCG Regulations, but quorum of 2 members for meeting of AC comprising three members may be appropriate provided, one ID is present in the meeting, the meeting is chaired by ID, and the quorum is not contradictory to the articles of association of the company.
- (iii) Yes, meeting of AC comprising three members, can be convened with two members provided, one ID is present in the meeting, the meeting is chaired by ID, and the quorum is not contradictory to the articles of association of the company.

Question 34: The regulations are divided into mandatory and non-mandatory provisions. I want to know if a company do not have NC, RMC, and HR&RC, does the company has to explain the reasons for it in SoC as per the comply or explain approach?

Response: Constitution of NC, RMC, and HR&RC are non-mandatory requirements. In case a company does not constitute NC, RMC, and/or HR&RC, then under the Comply or Explain approach, it shall appropriately explain, the reasons of not constituting these committees, in SoC annexed to the annual financial statements.

Question 35: Whether an ID, serving as chairman of the board, is eligible to be chairman of AC?

Response: No. In terms of regulation 27(1)(ii) of the CCG Regulations, ID who is serving as chairman of the board cannot be the chairman of AC.

E. Auditors and Audit

Question 36:

- (i) Is it permissible to call AC's meeting before completion of external audit?
- (ii) If the meeting is permissible and called forth as a way to discuss significant adjustments in the financial statements before completion of external audit, then whether the same can be considered as a part of the best practices?

Response:

- (i) It is not prohibited. Under regulation 27(2) (ii) of the CCG Regulation, meeting of AC may be held any time if requested by the external auditors, Head of Internal Audit or Chairman of AC.
- (ii) In case the meeting so called produces results that are superior to those achieved by other means and while doing so, all the applicable legal and ethical requirements are met, then it may be considered as the best practice. It may be noted that best practices are used to maintain quality as an alternative to mandatory legislated standards and can be based on self-assessment or benchmarking.

Question 37: Can a listed company outsource its internal audit functions to another listed company?

Response: Yes, in terms of regulation 31(6) of the CCG Regulations, a company may outsource its internal audit functions to a listed company provided such listed company is its holding company.

Question 38: Can a listed company outsource its internal audit functions to a person other than an audit firms?

Response: Save as provided in response to question above, in terms of regulation 31(6) of the CCG Regulations, the internal audit functions may be outsourced, wholly or partially, but only to a professional services firm of accountants.

F. Miscellaneous

Question 39: What is the effective date for compliance with the CCG Regulations?

Response: The CCG Regulations are effective from the date of its publication i.e. September 25, 2019. For the financial years ended before the date of the CCG Regulations i.e. September 25, 2019, the repealed Regulations shall apply whereas for the financial years ended and to be ended after September 25, 2019, the CCG Regulations are applicable.

Question 40: What should prevail in case any provision of the CCG Regulations is in conflict with any provision of the Act?

Response: Apparently nothing therein seems to be in conflict with the provisions the Act. However, in case of any conflict, the provisions of the Act shall prevail being the superior law and the fact that the CCG Regulations are framed under it.

Question 41: How much fee, does SECP charge for processing an application for seeking relaxation from any of the mandatory requirements of the CCG Regulations?

Response: A fee of Rs.100,000/- as specified vide SRO.1476 (I)/2018 dated December 6, 2018 (**Annexure-III**) is charged for processing of an application seeking relaxation from any of the mandatory requirements of the CCG Regulations.

Question 42: Would you please guide that the two professional institutes namely ICAP and ICMAP fall under the definition/explanation of, "the Body of Professional Accountants", given in regulation 23 of the CCG Regulations?

Response: Yes, both ICAP and ICMAP are bodies of professional accountants as each of them meet the requirement of regulation 23 (iii) of the CCG Regulations.

Question 43: In terms of regulation 32(4) of the CCG Regulations, it is mandatory that no company shall appoint its external auditors to provide services in addition to audit except in accordance with the CCG Regulations and shall require the auditors to observe applicable International Federation of Accountants guidelines in this regard. My question is that what are the services that are allowed to be assigned to the external auditors?

Response: The services allowed to be assigned to external auditors are not specifically mentioned in the CCG Regulations, however, these may be such services that do not compromise on quality of audit and quantum of fee charged by the external auditors for audit, and services not included in the list of prohibited services as given under regulation 5.10.3 of PSX Rulebook.

Question 44: How many board meetings of a listed company; a director, either executive director, non-executive director or independent director, have to attend. Please share reference.

Response: No specific provision is available, however, in terms of Section 171 (b) of the Act, a director shall cease to hold office as director if he does not attend three consecutive meetings of the board, without having leave of absence.

Question 45: Under Section 227(5) of the Act, SoC must be signed by CEO and a director of the company. However, as per format attached as Annexure-A to the CCG Regulations, it is required to be signed by the Chairman of the listed company. Kindly clarify.

Response: The SoC referred to here must be signed in the form and manner as required under the CCG Regulations.

Question 46: Our company will be holding election of directors next quarter. In this regard, guidance is requested in following matters:

- (a) Section 166 (1) of the Act mandates selecting IDs from approved data bank. Please clarify whether existing independent directors, opting for re-election, need to be registered on such data bank or not?
- (b) Regulation 6(3) of the CCG Regulations requires that an ID shall submit his consent to act as director to the company. On the other hand, Section 167 (1) of the Act also requires every director to submit his consent to act as director in writing on Form 28. Please clarify whether at the time of filing Form 29, both consents i.e. Form 28 and consent under regulation 6(3) of the CCG Regulations are required to be filed or only Form 28 is to be filed?

Response:

- (a) Yes, existing IDs are required to first register themselves with PICG as individuals eligible for appointing as IDs on the board of listed companies.
- (b) At the time of filing of Form 29, both consents i.e. Form 28 and consent under regulation 6(3) of the CCG Regulations are required to be filed.

Question 47: Is the requirement for external auditors to initial the financial statements before these are considered/approved by AC and the board of directors, inconsistent with the provisions of the Act, which states that responsibility for preparation of financial statements lies with the directors of the company and that the auditors express their opinion after these have been prepared and approved by the directors?

Response: The requirement for the auditors to sign / initial the financial statements, *before* these are considered/approved by AC and the board of directors, is for identification that these have been audited by the external auditors on whose behalf these are signed. Under Section 220 of the Act

read with Section 223 thereof, it is responsibility of the board to prepare financial statements of the company. Hence, these are not inconsistent.

Question 48: What are the consequences for non-compliance with the CCG Regulations?

Response: The CCG Regulations are issued under the Act. SECP directly supervises and enforces their compliance. Non-compliances observed, if any, are adjudicated under regulation 37 of the CCG Regulation.

Question 49: Can foreign directors attend general meeting through video conferencing?

Response: Yes, any director including foreign directors can attend general meeting through video conferencing or by other audio visual means.

Question 50: How can I seek help for resolution of my queries pertinent to the CCG Regulations?

Response: Any query relating to the CCG Regulations may be addressed to the Commission for resolution and response at the email address ccg@secp.gov.pk

CHAPTER VII

Annexure-I

REPORTING OF NON-COMPLIANCES AND EXPLANATIONS

Non-Compliance with any of the Non-Mandatory provisions of the CCG Regulations is as under:

S. No.	Requirement	Explanation for Non-Compliance	Reg. No.

Annexure-II

Criteria for Institutions desirous of offering Directors' Training Program

The CCG Regulations require the directors of the listed companies to have certification under directors' training program offered by any institution, local and/or foreign, that meet the criteria specified by the SECP.

This document lays down the minimum criteria for the eligibility of institutions and the areas that have to be covered in the Directors' Training Program (DTP) offered by them. The formal set of criteria to assess and evaluate the programs as well as the institutions offering these programs are given below.

For the aforesaid certification required under the CCG Regulations, foreign directors who have already participated in a training program that broadly covers the areas listed under para 6 below shall be exempted from the requirement of DTP. However, SECP shall determine the sufficiency of requirements on application from the Company.

Criteria for Institutions

DTP may be offered by an institution, after seeking prior approval of the SECP and subject to any conditions imposed by the SECP. An application received by the SECP from any of the institutions, will be judged on the following minimum parameters:

- permanent training set up;
- infrastructure and facilities;
- track record of the institution for the last five years;
- program content and structure as given in this document; and
- key resource (faculty) profile (permanent and adjunct).

The institutions approved by the SECP, will seek its prior approval, if any material change is to be brought to the DTP. The names of the institutions that are approved by the SECP to offer DTP will be placed on the website of the SECP.

Program outline

The following minimum criteria shall be met by the institutions who intend to offer DTP:

1. The DTP shall be designed to impart knowledge and develop skills of the board of directors of listed company that are essential for successful achievement of the company's objectives;
2. The course of study shall include both theory and case studies;
3. All faculty members shall have both practical experience as well as an appropriate academic background, suitable for carrying out DTP effectively;
4. The DTP must be spread over a span of at least 40 hours (divided into modules);
5. To increase the knowledge base, it is recommended that pre-training material based on the key elements of corporate governance should be developed and distributed amongst the trainees. The institution shall also

provide latest research to the trainees as post-training material to keep them updated with the latest developments taking place around the globe in the areas including following:

- Good board practices;
 - Control environment and processes;
 - Disclosure and transparency; and
 - Protection of shareholders' rights.
6. The program must cover, inter alia, an overview of the principles and the key pillars of corporate governance, its benefits and objectives, the roles and responsibilities of the board and executive management in light of relevant regulatory requirements and latest trends in corporate governance. This will assist the participants to be better equipped to understand and evaluate different approaches to structuring the ownership, control and regulation of companies.

The following topics at a minimum shall be included in the course contents:

a) Legal overview

- An overview of relevant laws that have to be adhered to, including the CCG Regulations, the Companies Act, 2017 and Securities Act, 2015;
- The key principles and elements of good corporate governance;
- Significance of director's report in the annual report;
- Directors' fiduciary duties to shareholders under the law; and
- Procedure of election, retirement and removal of directors.

b) Role and responsibility of the Board of Directors

- Development of code of conduct and other policies, and internal control system;
- Conduct of meetings of board of directors;
- Ethical obligations;
- Board composition, roles and responsibilities, powers and functions, duties and liabilities & procedures and practices;
- The right mix of skills and board diversity;
- The institution and importance of independent directors;
- Executive and non-executive remuneration – how to attract, retain and motivate directors and officers;
- Board committees and their roles;
- determining terms of appointment of the CEO and evaluating performance of the CEO;
- Defining the roles and responsibilities of the Chairman and the CEO;

- Performance evaluation of board and committees;
- Stressing the importance of substance over form; and
- Control environment.

c) Financial overview

- Related party transactions;
- Disclosures and financial reporting framework;
- The benefits of corporate governance including its impact on profitability and shareholder value; and
- How to read, understand and interpret financial statements.

d) Risk management

- Governance, risk management and compliance (GRC) issues; and
- Measures to assess risk

e) International trends and practices

- Global best practices;
- The importance of integrity and ethical obligations in exercising business decisions;
- Corporate Social Responsibility (CSR) and Sustainability reporting; and
- Corporate governance framework concerns and challenges.

7. An assessment at the end of each module/section and/or the whole course is mandatory to qualify for the certification.

Additional general requirements

1. The institutions offering DTP shall place the names of the certified directors on their websites and also disseminate their names amongst industry and business associations, chambers of commerce and industry, etc. through an appropriate mechanism, so that their names are readily available to the companies who wish to have trained directors on their boards. The names of certified directors shall also be sent through email to the SECP and PSX within 15 days of the conclusion of a DTP and PSX shall maintain a consolidated list of certified directors on its website.

2. The institutions shall strive to meet or exceed all established standards, both domestically as well as internationally. The institution shall clearly lay down the objectives of the DTP.

3. The availability and proper utilization of high quality instructional material is essential for conducting effective DTP. The institutions shall ensure that adequate material including relevant laws, case studies, syllabus, multimedia, reference texts etc. are made available for instructional purposes. Special focus should be on developing case studies, which are relevant to the business environment of Pakistan and these should be included in the curriculum.

4. The institutions are encouraged to arrange research programs, seminars, conferences, workshops, etc. for promoting good corporate governance practices in Pakistan.

5. The potential of undertaking continuing professional development of the trainees through the institution's websites in the form of on-line, self-study courses may be considered by the institutions.

Annexure-III

GOVERNMENT OF PAKISTAN
SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

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Islamabad, 6th December, 2018

NOTIFICATION

S.R.O. 1476 (I)/2018.- In exercise of the powers conferred under sub-section (2) of Section 507 read with Section 462 and 469 of the Companies Act, 2017 (XIX of 2017), in partial modification of S.R.O 228 (I)/2018 dated February 08, 2018 and in supersession of S.R.O 766(I)/2018 dated June 13, 2018, the Securities and Exchange Commission is pleased to make the following alteration in the Seventh Schedule to the Companies Act, 2017 (XIX of 2017), namely:-

In the aforesaid Seventh
Schedule, in item No X, sub-
tem (12A) shall be read as:

“(12A) relaxation from any
of the requirements of Listed
Companies (Code of
Corporate Governance)
Regulations, 2017, a fee
of.....

100,000

100,000”

(No. CSD/MISC/CCG/104/2016)

-Sd/-
(Bilal Rasul)
Secretary to the Commission

