

Public Comments on the proposed amendments in the Companies (Postal Ballot) Regulations, 2018 (“Regulations”), SECP’s comments and the Revised Amendments in Regulations

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|---|---|---|--|---|
| <p align="center">CHAPTER I Preliminary</p> | <p align="center">CHAPTER I Preliminary</p> | <p align="center">CHAPTER I Preliminary</p> | | |
| <p>Definitions.-</p> <p>3. Applicability.- The right of vote through postal ballot shall be provided to members of-</p> <p>(a) every company, subject to the requirements of sections 143 and 144 of the Act; and</p> <p>(b) a listed company in case of election of directors.</p> | <p>3. Applicability.- (1) (a) The right of vote through postal ballot shall be provided to members of every company, subject to the requirements of sections 143 and 144 of the Act.;</p> <p>and</p> <p>(b) a listed company in case of election of directors.</p> <p><u>-(2) The right to vote through electronic voting facility shall be provided to members of every listed company for all</u></p> | <p>Definitions.-</p> <p>(g) “scrutinizer” means scrutinizer appointed under regulation 11 of this regulations;</p> <p>3. Applicability. - The right of vote through postal ballot shall be provided to members of-</p> <p>(a)....</p> <p><u>(b) for all businesses classified as special business under the Act and in case of election of directors, if the number of persons who offer themselves to be elected is more than the number of directors fixed under sub-section (1) of section 159 of the Act.</u></p> | <p>ICAP:</p> <p>The proposed amendment for the listed companies to mandatory provide e-voting option to its the members may be made effective</p> | <p>The term scrutinizer is defined for ease of reference</p> <p>The amendment in regulation 3(2) as was proposed in the draft amendments issued for public comments has been reworded in sub-regulation (b) for the purpose of clarity of the said regulation and the requirement on the company to provide right to vote in cases as mentioned has been added to regulation 4 (1) and (1A) for the ease of reference in the final notification.</p> <p>Response to ICAP/PSX: The e-voting under the postal ballot regulations is already required to be provided to the members of every company subject to the</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--------------------|--|----------------------------------|---|--|
| | <p><u>businesses classified as special business under the Act and in case of election of directors, if the number of persons who offer themselves to be elected is more than the number of directors fixed under sub-section (1) of section 159 of the Act.</u></p> | | <p>after a transition period of 1-2 years to enable the listed companies to develop the required infrastructure or deploy e-voting solutions for the company's meetings. The development of e-voting system by listed companies would require resources and sufficient time.</p> <p>Pakistan Stock Exchange (PSX): Considering the fact that a large proportion of shares of listed companies are still held in physical form (for which the requisite particulars such as contact details are not always available), the aforementioned requirement may be deferred until such time that the mainstream of shares is converted into the book-entry form, in terms of Section 72 of the Companies Act. Hence, the listed companies should be facilitated to continue with existing practice to adopt either voting by post or through electronic mode till such time.</p> <p>CDC Share Registrar: Regulation 3(2) of Postal Ballot Regulations: The right of voting</p> | <p>requirements of Section 143 and 144 of the Act (i.e. where poll is demanded) and in case of election of directors. Moreover, in the proposed amendment the option of e-voting is further being required where the special business is transacted by a listed company. Therefore, it is considered that the transition period is not required. Moreover, with the proposed amendment, the companies will expedite to convert the shares into book entry form as required. However, companies shall be required to engage scrutinizer and the companies are being required to appoint scrutinizer for the meeting that will be held after three months of the date of publication the amending notification.</p> <p>Moreover, the companies in the current legal framework are still required to provide both options for voting to the shareholders.</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--------------------|--|----------------------------------|---|---|
| | | | <p>'by post' should also be added in this amendment.</p> <p>OICCI: E-voting and balloting may be allowed to those members who hold an appropriate/significant shareholding. Merely allowing it, knowing it would have no impact on the results, would not add value to the voting process. The percentage of shareholding may be mentioned in the law clearly.</p> <p>Arif Habib Corp. Ltd: We understand that on a historical basis, general meetings are conducted in a fair and transparent manner in Pakistan and no abuses are reported in general. In case of one-off events if transpire otherwise, existing laws already have the recourse available to the aggrieved persons for addressing such stances. Section 136 of the Companies Act, 2017 (Act) is an example which empowers the Court to declare the proceedings of a general meeting invalid.</p> <p>(2) Subject amendments will lead to nullifying the procedure defined in Section 141 of the Act which states that a resolution put to the</p> | <p>Response to CDC: Agreed with the proposal and for the purpose of clarity the following words have been added after the words “electronic voting facility”: “and voting by post”</p> <p>Response to OICCI, Arif Habib Corp Ltd. : The e-voting and balloting under the postal ballot regulations is already required to be provided to the members of every company subject to the requirements of Section 143 and 144 of the Act (i.e where poll is demanded) and in case of election of directors. The companies are required to give the e-voting option in addition to balloting in the interest of shareholders to participate in voting process. The Annexure III is being amended to provide the percentage of shareholding. A scrutinizer is to be appointed by listed companies at the time of soliciting shareholders’ approval only in three cases i.e. sale of sizeable part of its undertakings or assets, investment in associated companies, and election of directors. These approvals / transactions are not of</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--------------------|--|----------------------------------|---|---|
| | | | <p>vote at any general meeting shall be decided on a show of hands, unless a poll is demanded. Right to demand a poll is also already available to shareholders in terms of Section 143 of the Act.</p> <p>(3) We humbly suggest that the above points may be considered while making any amendments in the Regulations. If and where needed, amendments may be made to the extent and subject to following:</p> <p>(A) Where a listed company arranges the approval of seventy-five percent (75%) of its shareholders beforehand for the special businesses to be considered at a general meeting, it may be allowed to disclose such fact of obtaining the prior approval in its notice of general meeting, and should be exempted from the requirement of mandatory appointment of scrutinizer and mandatory provision of the option of electronic voting in the general meeting.</p> <p>(B) Where required, E-voting Service Provider or Registrar of the company is proposed to act as</p> | <p>a frequent nature; however, these are critical decisions regarding the affairs of the Company. Therefore, the appointment of scrutinizer to oversee the voting process in such cases is compulsory to create greater transparency. The requirement to appoint the scrutinizer exists internationally as well including in Singapore, Hong Kong, India, Malaysia and Bangladesh.</p> <p>Most of the comments are partially addressed in a response to Archroma Pakistan's comments.</p> <p>Further, the proposal to do away with the proposed requirement of e-voting and appointment of scrutinizer in case where listed company arranges to seek approval of 75% of shareholders beforehand, an evidence to the 75% majority in favor of a specific business can only be ascertained in in a general meeting and the scrutinizer is appointed to make this process more transparent. The practice of appointment of scrutinizers is quite common internationally as well. However, appointment of scrutinizer is being exempted where the investment is made in</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--------------------|--|----------------------------------|--|---|
| | | | <p>a scrutinizer. It may be noted that the financial auditors of a company have different area of expertise whereas E-voting Service Provider or Registrar of the company have better expertise of responsibilities of the scrutinizer as stated in the draft amendment.</p> <p>In furtherance of above, we would like to convey that the requirements in the proposed amendments being too stringent, may act as a barrier for the companies interested in listing their securities at the stock exchange. Stock exchange is a barometer of the economic and business conditions in a country. It is pertinent to mention that over the years, Pakistan had lagged behind in the ease of doing business index. The lawmakers with the help of regulators and other capital market participants are trying hard to introduce reforms and create enabling environment for easing business regulations.—We fear that the subject draft Regulations may prove otherwise and will not serve the purpose in relation to the efforts of stakeholders regarding ease of doing business. We believe that a workable, practical and cost-effective mechanism may be</p> | <p>the wholly owned subsidiary as the special resolution is not required while making investment in wholly owned subsidiary vide SRO 1239(1)/2017 dated December 6, 2017. Therefore Regulation 11(1)(b) has been amended accordingly.</p> <p>Furthermore, eligibility for the appointment of scrutinizer is restricted to the statutory auditor of the company or other audit firms because the share registrars are already involved in the management function of maintaining the shareholders' records on behalf of the company. Therefore, there may arise threats of self-review and the conflict of interest between the two different functions of the registrars.</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--|--|--|--|--|
| | | | developed with respect to above in the best interest of capital markets and to avoid any unnecessary complexities. | |
| CHAPTER II ELECTRONIC VOTING | CHAPTER II ELECTRONIC VOTING | CHAPTER II ELECTRONIC VOTING | | |
| <p>4. Responsibility of company.</p> <p>(1) ...</p> <p>(2) ...</p> <p>(3) ...</p> | <p>4. Responsibility of company.</p> <p>(1) ...</p> <p>(2) ...</p> <p>(3) ...</p> <p>(4) In case of election of directors <u>and transactions specified as special business under the Act</u>, a listed company shall send information to members as provided in sub-regulations (2) and (3) not later than seven days before the date of general meeting and the provisions of regulation 7 shall apply.</p> | <p>4. Responsibility of company.</p> <p><u>(1) The right of vote through postal ballot shall be provided to members of every company, subject to the requirements of sections 143 and 144 of the Act.</u></p> <p><u>(1A) The right to vote through electronic voting facility and voting by post shall be provided to members of every listed company for all businesses classified as special business under the Act and in case of election of directors, if the number of persons who offer themselves to be elected is more than the number of directors fixed under sub-section (1) of section 159 of the Act.</u></p> <p>(1)-(1B)</p> <p>(2) ...</p> | <p>ICAP:</p> <p>The information to be sent to the members should include information about the appointed scrutinizer.</p> | <p>The Regulation 4(1) and (1A) has been added to clearly define the responsibility of the company to provide the right to vote.</p> <p>Agreed with the proposal and addition made in the proposed amended Regulation 4 (4).</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|---|--|---|--|---|
| | | <p>(3) ...</p> <p>(4) In case of election of directors <u>and transactions specified as special business under the Act</u>, a listed company shall send information to members as provided in sub-regulations (2) and (3) <u>along with the information about scrutinizer, where required under Regulation 11, including but not limited to,-</u></p> <p><u>(a) his /her name,</u></p> <p><u>(b) qualification and experience; and</u></p> <p><u>(c) the purpose of his/her appointment,</u></p> <p><u>not later than seven days before the date of general meeting and the provisions of regulation 7 shall apply.</u></p> | | |
| <p>7. Procedure for e-voting. –</p> <p>(1) The facility for e-voting shall remain open for not less than three days and shall close at 1700 hours (Pakistan Standard Time) on the date preceding the date of the poll.</p> <p>(2) Identity of the members intending to cast vote through</p> | <p>(No change proposed)</p> | <p>(No change proposed)</p> | <p>FAMCO Associates:</p> <p>There appears a need to review the procedures of e-voting currently prescribed. It is appropriate that physical and e-voting is held only on the day and time fixed for the meeting when it has become clear that there is need for voting for the reason that in case of Election of</p> | <p>Response to FAMCO Associates:</p> <p>1) It is clarified that finalization of proxies received by the company and e-voting are not interlinked. The option of e-voting has to be provided to every member of the company regardless of his/her will to join the meeting in person or through</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|---|--|----------------------------------|---|--|
| <p>e-voting shall be authenticated through electronic signature or authentication for login. (3) Members shall cast vote online during the time specified in sub-regulation (1), provided that once the vote on a resolution is casted by a member, he shall not be allowed to change it subsequently. (4) The e-voting service provider shall be required to keep the result of e-voting confidential and provide access to the chairman of the general meeting in which poll was demanded to unblock result of e-voting on the day of poll.</p> | | | <p>Directors, the voting cannot commence unless each and every proxy received (48 hours before the meeting) has been scrutinized and its validity has been established. In case of heavily contested elections, where quantum of proxies received runs in hundreds, their scrutiny, rectification of shortcomings and acceptance of valid proxy sometimes takes another day. Hence it becomes difficult to open the e-voting portal three days in advance in case of Election of Directors as voting can commence only after full list of proxies has been compiled, and voting strength of each proxy-holder has been established.</p> | <p>proxy. Thus, such member may vote either through e-voting portal or through presence in the meeting by self or proxy.</p> <p>2) Further, the option to vote through e-voting facility is provided for three days before the meeting in order to facilitate and provide ease of voting to the members who may be unable to join the meetings in person or proxy due to some reasons but are still willing to vote on important matters of the Company.</p> <p>3) Also, there may exist a risk of duplication of votes through e-voting facility and voting through proxy, this risk is covered by assigning the responsibility of the Chairman to ensure the completeness and accuracy of the votes through regulation 10 (3) and the scrutinizer to monitor and ensure that the duplicate votes are not taken into account in the voting results, through regulation 11(A)(1)(e).</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--|---|---------------------------------------|------------------------------|------------------------------|
| <p align="center">CHAPTER III VOTING THROUGH BALLOT PAPER</p> | <p align="center">CHAPTER III VOTING THROUGH BALLOT PAPER</p> | | | |
| <p>8. Responsibility of Company. (1) Subject to sections 143 and 144 of the Act, a company shall, within three working days from the day of general meeting, in which poll is demanded, publish ballot paper in English and Urdu languages at least in one issue each of a daily newspaper of respective language having nationwide circulation substantially on the format as provided in Annexure I containing the draft resolution and following information:</p> <p>(a) business address and contact details of chairman of the general meeting in which poll was demanded, where duly filled ballot paper has to be sent by members; (b) detailed procedure for submission of ballot papers.</p> | <p>8. Responsibility of Company. (1) Subject to sections 143 and 144 of the Act, a company shall, within three working days from the day of general meeting, in which poll is demanded, <u>upload the ballot paper on its website and publish the same</u> ballot paper in English and Urdu languages at least in one issue each of a daily newspaper of respective language having nationwide circulation substantially on the format as provided in Annexure I containing the draft resolution and following information:</p> <p>(a) business address and contact details of chairman of the general meeting, where duly filled ballot paper has to be sent by members; and (b) detailed procedure for submission of ballot papers.</p> | <p>Same as in proposed regulation</p> | <p>No comments received.</p> | <p>No comments received.</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--|---|--|---|--|
| <p>(2) The Company shall also upload the ballot paper and information given in sub-section (1) on its website.</p> | <p>(2) The Company shall also upload the ballot paper and information given in sub-section (1) on its website.</p> <p><u>(2) Where, in addition to e-voting, the option of voting through ballot paper is provided by the Company in case of election of directors or transactions specified as special business under the Act, the Company shall publish the ballot paper and information as provided in sub-regulation (1) in newspapers and also upload the ballot paper on its website not later than seven days before the general meeting and the provisions of regulation 9 shall apply.</u></p> | | | |
| <p align="center">CHAPTER IV RESULT OF POLL</p> | <p align="center">CHAPTER IV RESULT OF POLL</p> | <p align="center">CHAPTER IV RESULT OF POLL</p> | | |
| <p>10. Responsibility of Chairman of meeting. (1) ... (2) ... (3) The chairman of the meeting shall immediately after the conclusion of poll,</p> | <p>10. Responsibility of Chairman of meeting. (1) ... (2) ... (3) The chairman of the meeting shall, immediately after the conclusion of poll, count votes</p> | <p><u>10. Responsibility of Chairman of meeting.</u> <u>(1) ...</u> <u>(2) ...</u> (3) The chairman of the meeting shall, immediately after the conclusion of poll, count votes</p> | <p>ICAP: Timing of scrutinizer' appointment, role and mandate of scrutinizer (i.e. responsible for carrying out the voting process or responsible for monitoring the</p> | <p>Response to ICAP: It has been suggested to provide further clarity on the role and mandate of the scrutinizer. It is clarified that the role of scrutinizer is to monitor the voting process. For this purpose, further clarity is provided in the</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|---|--|---|---|--|
| <p>count votes cast during time of poll in person, through proxy, video-link and post and in case of e-voting unblock result of e-voting in the presence of a representative of the members demanding the poll.</p> <p>(4) ...</p> <p>(5) ...</p> | <p>cast during time of poll in person, through proxy, video-link and post and, in case of e-voting, unblock result of e-voting in the presence of a representative of the members demanding the poll <u>and in the presence of two witnesses not in employment of the Company.</u></p> <p>(4) ...</p> <p>(5) ...</p> <p><u>(6) Where a scrutinizer has been appointed under Regulation 11, the Chairman shall also:</u></p> <p><u>(a) ensure that the scrutinizer(s) is provided with the register of members, specimen signature of the members, relevant details pertaining to members and any other document related to the voting process;</u></p> <p><u>(b) ensure presence of scrutinizer while unblocking the results of e-voting;</u></p> <p><u>(c) record the time and date of receipt of the report submitted by the scrutinizer under sub-</u></p> | <p>cast during time of poll in person, through proxy, video-link and post and, in case of e-voting, unblock result of e-voting in the presence of a representative of the members demanding the poll <u>and two witnesses not in employment of the Company. The Chairman of the meeting shall ensure completeness and accuracy of the results of the voting.</u></p> <p>(4) ...</p> <p>(5) ...</p> <p><u>(6) Where a scrutinizer has been appointed under Regulation 11 by the Board, the Chairman shall also:</u></p> <p><u>(a) ensure that the scrutinizer(s) is provided, prior to members meeting, with the register of members, specimen signature of the members, relevant details pertaining to members and any other document related to the voting process including an independent certification report and flow chart of the e-voting system;</u></p> | <p>voting process) require further clarity.</p> <p>In draft regulation 6(a) the responsibility of chairman be included to ensure the completeness and accuracy of the results and obtain the scrutinizer's approval on the announcement of the voting results prior to making the final announcement to the members of the company.</p> | <p>new proposed regulation 11A where the responsibilities of scrutinizer have been defined.</p> <p>As regards clarity on the timing of scrutinizer's appointment, it is mentioned that Regulation 4(4) has been amended where the company is required to provide details about the scrutinizer not later than seven days before the date of the meeting. Therefore, the scrutinizer can be appointed at any time by the company however before seven days of issuance of notice where required details are required to be provided to the shareholders.</p> <p>Partially agreed with respect to the Chairman's responsibility for the accuracy and completeness of the result and addition made in Regulation 10 (3) accordingly. However, the proposal that the Chairman to obtain scrutinizer's approval prior to making final announcement of result, it is mentioned that the role of the scrutinizer is only to monitor the voting process, therefore approval is not required.</p> <p>Moreover, as given in Reg 10 (6) (d), the Chairman announces</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--------------------|---|--|---|---|
| | <p><u>regulation (3) of Regulation 11 A (3); and</u> <u>(d) immediately after the receipt of the scrutinizer's report, announce the result and place the scrutinizer's report on the website of the Company.</u></p> | <p><u>(b) ensure presence of scrutinizer while unblocking the results of e-voting;</u> <u>(c) record the time and date of receipt of the report submitted by the scrutinizer under Regulation 11 A (3);</u> <u>(d) immediately after the receipt of the scrutinizer's report as per Regulation 11A (3), announce the result in the meeting and place the same along with the scrutinizer's report, on the website of the Company; and</u> <u>(e) ensure that the company maintains record of shareholders, either manually or electronically, of the assent and dissent received including the votes that are considered invalid, along with the particulars of name, folio number and total number of shares held, as mentioned but not limited to the format provided in Annexure II.</u></p> | <p>A provision be added to specify the responsibilities of the board of directors, further to the appointment of the scrutinizer, such as providing scrutinizer with access to the share register of the company and ensuring that necessary support is available to the scrutinizer for fulfilling his responsibilities, be covered under the board's responsibilities.</p> <p>CDC Share Registrar:</p> | <p>result after receipt of scrutinizer's report. However, Reg 10 (6) (d) has been amended to be read with reg 11A (3) for clarity purposes.</p> <p>Moreover, in view of ICAP's comment against Reg 11A, Reg 10(6) (a) has been amended to include the Chairman's responsibility to provide the independent certification report and flow chart of e-voting system to the scrutinizer prior to the members meeting along with the other mentioned documents.</p> <p>The board has already been made responsible for appointment of scrutinizer under Reg 11. Moreover, the responsibility for facilitation to the scrutinizer has been assigned to the Chairman since he/she is responsible for carrying out proceedings of meetings and of the voting process. Thus, assigning the same responsibilities to the board will not be appropriate.</p> <p>Response to CDCSR: There are still cases where the shareholding is not converted in</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|---|--|---|--|--|
| | | | Regulation 10(6)(a): Since major shareholding is in demat (book entry) form, there is no need for specimen signature. | Demat form, therefore, specimen signatures will be required. |
| CHAPTER V ELECTION OF DIRECTORS | CHAPTER V ELECTION OF DIRECTORS <u>APPOINTMENT AND</u> <u>RESPONSIBILITIES OF</u> <u>SCRUTINIZER</u> | CHAPTER V <u>APPOINTMENT AND</u> <u>RESPONSIBILITIES OF</u> <u>SCRUTINIZER</u> | ICAP: The structural changes consequent to the change in the heading of chapter V be considered to avoid any unintended confusion. | Agreed. Consequent changes have been addressed in the regulations. |
| 11. Election of directors. (1) In case of election of directors, if the number of persons who offer themselves to be elected is more than the number of directors fixed under sub-section (1) of section 159 of the Act, a listed company shall: (a) in case of e-voting, send information to members as provided in sub-regulation 2 and 3 of regulation 4, not later than seven days before the date of general meeting and the provisions of regulation 7 shall apply. (b) in case of voting through ballot paper, publish the ballot | 11. Election of directors. (1) In case of election of directors, if the number of persons who offer themselves to be elected is more than the number of directors fixed under sub-section (1) of section 159 of the Act, a listed company shall: (a) in case of e-voting, send information to members as provided in sub-regulation 2 and 3 of regulation 4, not later than seven days before the date of general meeting and the provisions of regulation 7 shall apply. (b) in case of voting through ballot paper, publish the ballot | | | |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--|--|---|--------------------------|--|
| <p>paper and information as provided in regulation 8 in newspapers, shall also upload the ballot paper on its website not later than seven days before the general meeting and the provisions of regulation 9 shall apply.</p> <p>(2) The chairman of the meeting shall immediately after the conclusion of voting for election of directors, count votes casted during the meeting in person, through proxy, video-link and post and in case of e-voting unblock result of e-voting and announce result in accordance with sub-regulation 4 and 5 of regulation 10.</p> | <p>paper and information as provided in regulation 8 in newspapers, shall also upload the ballot paper on its website not later than seven days before the general meeting and the provisions of regulation 9 shall apply.</p> <p>(2) The chairman of the meeting shall immediately after the conclusion of voting for election of directors, count votes casted during the meeting in person, through proxy, video link and post and in case of e-voting unblock result of e-voting and announce result in accordance with sub regulation 4 and 5 of regulation 10.</p> | | | |
| | <p><u>11. Appointment of Scrutinizer.</u> <u>(1) The Board of a listed company, for the purpose of voting, shall appoint at least one scrutinizer for the following businesses:</u> <u>(a) sale of sizeable part of assets/undertaking;</u></p> | <p><u>11. Appointment of Scrutinizer.</u> <u>(1) The Board of a listed company, shall appoint a scrutinizer for the purpose of voting, in the meeting where following businesses are to be transacted;</u></p> | <p>ICAP:</p> | <p>As proviso to the Regulation 11 has been added for ease of companies to appoint scrutinizer under the said regulation after 3 months from the date of publication of the amending notification</p> <p>Response to ICAP:</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--------------------|--|--|--|---|
| | <p><u>(b) Investment in associated companies and;</u> <u>(c) election of directors.</u></p> | <p><u>(a) businesses mentioned in section 183 (3) (a) and (b) of the Act;</u> <u>(b) investment in associated companies as mentioned in section 199 of the Act except where investment is made in wholly owned subsidiary; and</u> <u>(c) election of directors.</u></p> <p><u>Provided that a listed companies are required to appoint scrutinizer under this regulation after 3 months from the date of publication of this amending notification.</u></p> | <p>(i) Regarding the role and responsibilities of the scrutinizer clarity is required as to whether the scrutinizer would be responsible for carrying out the voting process or monitoring of the voting process.</p> <p>(ii) It is suggested to provide further explanation on the interaction of the requirements of draft regulation 10A and 10B of the Corporate Governance Regulations and draft amendments in the Postal Ballot Regulations.</p> <p>(iii) Draft regulation 10A of the Corporate Governance Regulations and draft regulation 11(1) of the Postal Ballot Regulations suggest that board of a listed company can appoint more than one scrutinizer for one business. With regards to the appointment of more than one scrutinizer (i.e. joint scrutinizers) it is important to clarify the extent</p> | <p>Already addressed in the response to ICAP Comment on Regulation 10 above.</p> <p>In view of the voting right of the members and the definition of postal ballot given in the Act, the listed Company is required to provide the option of electronic voting in the general meeting in addition to voting by post, in cases where postal ballot regulations are applicable. Therefore, the proposed amendment in Corporate governance regulations 2019 is not required.</p> <p>Agreed: As the role of the scrutinizer is defined in Reg 11A is to monitor and validate the voting process, the wording has been changed in Reg 11(1) to suggest that a single scrutinizer needs to be appointed instead of joint or multiple in the meeting where the businesses</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--------------------|--|----------------------------------|---|--|
| | | | <p>of responsibility and liability of the joint scrutinizers, and the conflict resolution between the joint scrutinizers.</p> <p>(iv) The businesses for which scrutinizer shall be appointed (in addition to the election of director) be aligned with the requirements and explanations of the section 183 (3) of the Companies Act, 2017.</p> <p>Archroma Pakistan Ltd (through PBC): 11(1): Such amendment to appoint External Auditor as an independent scrutinizer will only put an additional regulatory and financial burden on the already fully compliant listed companies, as it would not add to any value or protection of minority</p> | <p>mentioned in Reg 11 (1) are being transacted. The words “<i>at least one scrutinizer</i>” may be substituted by the words “<i>a scrutinizer</i>”.</p> <p>Moreover, further clarity is provided that the scrutinizer is appointed is for the businesses transacted in the meeting and not for each business</p> <p>Partially Agreed: Reg 11 (1) (a) amended by including reference to the businesses mentioned in section 183 (3) (a) & (b). The business mentioned in 183 (c) is not included as it already requires approval of the Commission.</p> <p>Response to Archroma Pakistan Ltd: A scrutinizer is to be appointed by listed companies at the time of soliciting shareholders’ approval only in three cases i.e. sale of sizeable part of its undertakings or assets, investment in associated companies, and</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--------------------|--|----------------------------------|--|---|
| | | | <p>shareholders – if that is the intent of the Regulator – and therefore recommended to be reviewed and taken back.</p> <p>Rationale: Currently in pursuance of Postal Ballot Regulations 2018, Companies are already required to appoint CDC and Share Registrars as independent scrutinizers who also have the right expertise of assessing and reviewing the voting process and can also make a report to the Regulator – if needed. Additional appointment of External Auditors on top may not only lead to financial burden but also lead to inordinate administrative delays in declarations of results by the Chairman as External Auditors will then need more time and additional staff for the purpose to scrutinize all the records.</p> | <p>election of directors. These approvals / transactions are not of a frequent nature; however, these are critical decisions regarding the affairs of the Company. Therefore, the appointment of scrutinizer to oversee the voting process in such cases is compulsory to create greater transparency. The requirement to appoint the scrutinizer exists internationally as well including in Singapore, Hong Kong, India, Malaysia and Bangladesh.</p> <p>Furthermore, eligibility for the appointment of scrutinizer is restricted to the statutory auditor of the company or other audit firms because the share registrars are already involved in the management function of maintaining the shareholders' records on behalf of the company. Therefore, there may arise threats of self-review and the conflict of interest between the two different functions of the registrars.</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--------------------|--|----------------------------------|--|---|
| | | | <p>Corplink Private Limited: SECP should take into account the additional cost / burden being imposed on a listed company during the current adverse economic conditions due to appointment of audit firms as scrutinizers.</p> <p>PSX: The draft amendments in Postal Ballot Regulations have made it compulsory for the listed companies to appoint at least one scrutineer for the following businesses:</p> <p>(a) sale of a sizeable part of assets/undertaking; (b) investment in associated companies; and (c) election of directors.</p> <p>In this regard, since a small proportion of any further investment in associates of listed companies (including subscription</p> | <p>Moreover, it is also clarified that CDC and Share Registrars in the current Companies Postal Ballot Regulations, 2018 can act as the e-voting service providers, not scrutinizers.</p> <p>Corplink Private Limited Addressed as above.</p> <p>PSX: These approvals / transactions are not of a frequent nature; however, these are critical decisions regarding the affairs of the Company. Therefore, the appointment of scrutinizer to oversee the voting process in such cases is compulsory to create greater transparency. The requirement to appoint the scrutinizer exists internationally as well including in Singapore, Hong Kong, India, Malaysia and Bangladesh. However, it is considered that the appointment of scrutinizer may be exempted only in cases where</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--------------------|--|----------------------------------|--|---|
| | | | <p>of right shares offered by associates) also require approval of shareholders under Section 199 of the Companies Act, the requirement to make the appointment of a scrutineer may put the extra burden upon listed companies in terms of cost of such investment every time whenever the companies would invest or change nature of such investments. Hence, it may impact the concept of holding/group companies due to such increased costs.</p> <p>We, therefore, suggest that clause (b) above (i.e. investment in associated companies) should be removed from the draft regulations.</p> <p>OICCI: For Election of Directors, instead of appointing external auditors as scrutinizer, who may have no experience of voting process and dealing with the shareholders, it is suggested to add Share Registrars or legal firms as Scrutinizers as they have more visibility towards regulatory framework. Such amendment to appoint External Auditor as an independent scrutineer will only</p> | <p>the investment is made in the wholly owned subsidiary as the Commission has exempted the requirement of special resolution given in Section 199 of the Act in cases where investment is made in wholly owned subsidiary vide SRO 1239(I)/2017 dated December 6, 2017. Therefore, Regulation 11 (1) (b) has been amended accordingly.</p> <p>Response to OICCI: Addressed above in response to Archroma Pakistan's comments.</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--------------------|---|---|--|--|
| | | | <p>put an additional regulatory and financial burden on the already fully compliant listed companies. Therefore, it is recommended to be reviewed and taken back.</p> <p>Arif Habib Corp Ltd. Mandatory requirements of e-voting and appointment of scrutinizer for specified matters will put unnecessary burden of additional costs and procedures on part of the listed companies.</p> | <p>Response to Arif Habib Corp. Ltd: Addressed above in response to Archroma Pakistan’s comments.</p> |
| | <p><u>(2) The scrutinizer appointed in sub-regulation (1):</u> <u>(a) shall be the statutory auditor of the company or any other auditor fulfilling requirements stated in section 247 of the Act and having satisfactory QCR Rating from the Institute of Chartered Accounts of Pakistan (ICAP);</u> <u>(b) shall have expertise of independently assessing the voting process.</u></p> | <p><u>(2) The scrutinizer appointed in sub-regulation (1) shall:</u> <u>(a) be the statutory auditor of the company or any other auditor fulfilling requirements stated in section 247 of the Act and having satisfactory QCR Rating from the Institute of Chartered Accounts of Pakistan (ICAP);</u> <u>(b) in the opinion of the Board has necessary knowledge and experience to independently scrutinize the voting process.</u></p> <p><u>(3) The scrutinizer appointed under sub-regulation (1), may take assistance of any person who is not in employment of</u></p> | <p>CDC Share Registrar: Regulation 11(2)(b) of Postal Ballot Regulations: How “expertise of Independently assessing the voting process” of Scrutinizer can be determined / evaluated as it is a subjective matter. ICAP: The use of term 'expertise' in the above-noted draft regulation is generic and could be interpreted in varied ways. It is suggested that the regulation 11 (2) (b) be deleted from the draft Regulations. The responsibilities of the board of directors for evaluating the independence of the scrutinizer be included. FAMCO Associates:</p> | <p>Agreed: Reg 11(2)(b) has been re-worded.</p> <p>Addressed as above.</p> <p>The responsibility of the appointment of scrutinizer has been fixed on Board in Regulation 11 which includes the assessment of independence of the scrutinizer.</p> <p>FAMCO & PSX:</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--------------------|--|--|---|--|
| | | <p><u>the company for the purpose of fulfilling his/her responsibilities.</u></p> | <p>Share Registers are more suited to serve as Scrutinizer and they have been performing this role for decades. Their suitability is based on the below considerations:</p> <p>(i) In-depth knowledge of Shares, Voting and Shareholder’s affairs.</p> <p>(ii) Are Cost effective compared to the statutory auditor. – Appointment of auditor as Scrutinizer would enhance the cost of doing business for the Company. Normally the charges of share registrars for scrutinizer services are more economical because it has a package pricing bundled with physical voting and e-voting services.</p> <p>(iii) Is able to give voting result in a shorter time. – As share registrar is familiar and knowledgeable about the voting process and share-holder’s affairs, therefore, it is able to certify the result more quickly, compared to an auditor who would first need to get familiar with the voting mechanism and build trust on the procedures and output of the e-voting service provider / share registrar before it Is able to certify the results.</p> | <p>Addressed in the response given against Archroma Pakistan Ltd comments above.</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--------------------|--|----------------------------------|--|--|
| | | | <p>Based on the above, we suggest that in addition to auditor, the company's share registrar or any other share registrar duly licensed by SECP should also be capable of being appointed as Scrutinizer. However, to maintain a Chinese wall between the functions of the share register / e-voting service provider, the scrutineer appointed from the share registrar must be its CEO, COO or a Director, who should sign the Scrutinizer Certificate in his name.</p> <p>PSX:</p> <p>The draft Postal Ballot Regulations have proposed that the scrutinizer, appointed for a necessary purpose, shall only be the company's statutory auditor or any other auditor having a satisfactory QCR rating from ICAP.</p> <p>In this respect, since the listed companies are already mandated to have an independent share registrar possessing requisite qualifications in terms of the Companies Act, the companies should also be allowed to procure the services of scrutinizer from</p> | <p>Addressed in the response given against Archroma Pakistan Ltd comments above.</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--------------------|--|--|--|---|
| | | | their share registrars, who are well equipped for such services, and able do so within reasonable charges. | |
| | <p><u>11A. Responsibility of Scrutinizer.</u> <u>(1) The scrutinizer appointed under Regulation 11 shall:</u> <u>(a) ensure that satisfactory procedures of the voting process are in place;</u> <u>(b) validate the voting results compiled by the Company which includes votes cast in person, through proxy, video-link and postal ballot immediately after the conclusion of the voting;</u> <u>(c) in case of e-voting, ensure presence at the time of unblocking the votes by the chairman;</u> <u>(d) be available in the general meeting and observe the count of the votes cast, either manually or electronically;</u> <u>(e) ensure that there is no duplication of votes cast, either manually or electronically;</u></p> | <p><u>11A. Responsibility of Scrutinizer.</u> <u>(1) The scrutinizer appointed under Regulation 11 shall:</u> <u>(a) observe that satisfactory procedures of the voting process including adequate precautionary measures to comply with the requirements of these regulations are in place;</u> <u>(b) validate the voting results compiled by the Company which includes votes cast in person, through proxy, video-link and postal ballot immediately after the conclusion of the voting;</u> <u>(c) in case of e-voting, ensure presence at the time of unblocking the votes by the chairman to observe and oversee the process;</u> <u>(d) be available in the general meeting and observe the count</u></p> | <p>ICAP:</p> <p>(i) The scrutinizer's responsibility to ensure 'satisfactory' procedures of the voting process, mentioned in draft regulation 11A(1)(a) of the draft Postal Regulations can be subject to varied interpretations. For shared understanding and application, it is suggested to list-down the procedures that are required for ensuring 'satisfactory' voting process.</p> <p>(ii) Draft regulation 11A(1)(b) mentions the voting through video-link. It is suggested to clarify whether video-link and e-voting are the same or they are different.</p> <p>(iii) The scrutinizer's responsibility relating to 'unblocking' mentioned in draft</p> | <p>Response: Agreed. Reg 11A re-worded for clarity.</p> <p>(ii) As per definition given in Reg 2(1)(f) of the Companies Postal Ballot Regulations 2018, e-voting is electronic voting which is voting through electronic mode. Therefore, it is clarified that e-voting is not the same as voting through video link. Further, Regulation 29 of the Companies (General Provisions and Forms) Regulations, 2018 may be referred for further guidance on the video link</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--------------------|---|---|---|--|
| | <p><u>(f) maintain a record of shareholders, either manually or electronically, the assent and dissent received along with the particulars of name, address, folio number and number and value of shares held;</u></p> <p><u>(g) maintain the record of the votes that are considered invalid and;</u></p> <p><u>(h) Perform any other role and responsibility as may be specified by the Commission from time to time.</u></p> | <p><u>of the votes cast, either manually or electronically;</u></p> <p><u>(e) observe that there is no duplication of votes cast, either manually or electronically;</u></p> <p><u>(f) maintain a record of shareholders, either manually or electronically, to record the assent and dissent received along with the particulars of name, folio number and number of shares held;</u></p> <p><u>(g) maintain record of the votes that are considered invalid and;</u></p> <p><u>(h) perform any other role and responsibility as may be directed or specified by the Commission from time to time.</u></p> | <p>regulation 11A(1)(c) of the draft Postal Regulations also requires defined procedures.</p> <p>After approval of Commission, concerned departments are required to notify the changes in regulation(s) and a comparative statement of public comments received and agreed/disagreed along with rationale on the SECP's website.</p> <p>CDC Share Registrar: Remove words 'address' and 'value' from 11A(1)(f) as it seems that no value will be added.</p> <p>ICAP: (iv) For e-voting the scrutinizers should be responsible to obtain (prior to the member's meeting) an independent certification report and flow chart of the e-voting system from the company. It is suggested that this responsibility is included in the draft Postal Ballot Regulations.</p> | <p>facility to be provided to the members.</p> <p>Not Agreed: Unblocking has to be done by Chairman of the meeting in presence of two witnesses as per regulation 10 (3) and the scrutinizer has to monitor and be present at the time of unblocking. Moreover, 'unblocking' the results on the e-voting system is a <i>single step</i> process and should not require any further procedures.</p> <p>Agreed. The words "Address" and "value" have been deleted.</p> <p>Response to ICAP: Partially Agreed. This responsibility has now been assigned to the Chairman to provide the independent certification report and flow chart of the e-voting system to the scrutinizer before the members meeting and has been added in Reg 10 (6) (a).</p> <p>On the day of meeting, scrutinizer has to follow</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--------------------|--|----------------------------------|---|--|
| | | | <p>(v) It is also suggested to specify the scrutinizer's responsibility to follow the instructions of the share registrar of the listed company in case of any dispute involving the directors, management or members of the company.</p> <p>(vi) The rights of the scrutinizer be also included and explained in the draft Postal Ballot Regulations. These should cover:</p> <p>(a) The scrutinizer's right to take assistance from a person who is not in employment of the company and well versed with e-voting system may also specified for clarity and common understanding.</p> <p>(b) Indemnity clause for the scrutinizer shall also be provided</p> | <p>shareholding position as mentioned in the register of members for which Chairman of the board has been made responsible to provide its access to the scrutinizer and the share registrar is also made responsible for accurately maintaining the shareholding position and record under their respective regulations. In case of any dispute, it is the responsibility of the Chairman of the meeting to resolve and the Scrutinizer should not be obligated by law to follow instructions of the share registrar only.</p> <p>Partially agreed. Regarding the scrutinizer's right to take assistance from a person who is not in employment of the company and well versed with e-voting system, following clause may be added as clause 11 (3): <i>“The scrutinizer appointed under sub-regulation (1), for the purpose of fulfilling his/her responsibilities, may take</i></p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--------------------|--|--|---|--|
| | | | in the draft Postal Ballot Regulations. | <i>assistance of any person who is not in employment of the company.</i> "Not Agreed. Considering the role of scrutinizer which involves only the monitoring of the process, indemnity clause should not be provided. |
| | <u>(2) The scrutinizer shall maintain a register either manually or electronically to record the assent or dissent received in a format as provided in Annexure III.</u> | | CDC Share Registrar: Delete 11(A)(2) as the scrutinizer will validate the voting results compiled by the Company / Share Registrar after performing prescribed procedures. Accordingly proposed Annexure III will also be deleted and Annexure IV will be re-numbered as Annexure III. | Not Agreed This is the responsibility of the Scrutinizer and is part of the report submitted by it. However, since is was duplication of 11A(1)(f), accordingly is deleted. Annexures have been amended accordingly. |
| | <u>(3) The scrutinizer shall submit to the Chairman a duly signed consolidated report on result of the voting as soon as possible on the same day of general meeting on the format as provided in Annexure IV.</u> | <u>(2) The scrutinizer shall submit to the Chairman a duly signed consolidated report on the voting process and votes casted as soon as possible on the same day of general meeting on the format as provided in Annexure III.</u> | ICAP: In view of the significance of the matters and need for announcing the voting results at the earliest, we agree with the requirement for the scrutinizer to compile and report on the voting result on the same day of general meeting. However, a provision be also added to provide guidance in the situations where for practical | Not agreed. The scrutinizers role is only to monitor the voting process and give report. Delay is not expected in such cases. |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--------------------|--|--|---|-----------------------|
| | | | <p>reasons the scrutinizer is unable to submit the report to the Chairman as per draft regulation 11A (2). It is suggested that in such a situation the scrutinizer shall inform the SECP and Pakistan Stock Exchange in writing explaining the reasons for not being able to submit the report as per 11A (2).</p> <p>OICCI: Usually, a general meeting at present is concluded in a reasonable time period, but with the scrutinizer's report to be presented the same day of the meeting, there is every possibility that meeting will be of longer duration, which means that all shareholders will not be present when the report is presented to the Chairman.</p> | |
| Does not exist | Does not exist | <p>CHAPTER-VI</p> <p>MISCELLANEOUS</p> <p>11B. Penalty for contravention of these regulations. — (1) Whoever fails or refuses to comply with, or contravenes any provision of</p> | | Penalty clause added. |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|--------------------|---|--|--|---|
| | | <p>these regulations, or authorizes or permits such failure, refusal or contravention shall be punishable with penalty as provided in sub-section (2) of section 512 of the Act.</p> <p>(2) The penalty to be imposed under this regulation shall be in addition to any other actions that may be taken by the Commission.</p> | | |
| | <p>Annexures III and Annexure IV added</p> | <p>Annexure II on Execution report amended. Annexure III previously proposed on Result of Resolutions has been deleted and particulars added in Annexure II Annexure IV on Scrutinizer Report further clarified and renumbered as Annexure III</p> | <p>ICAP: The format of Annexure III of the draft Postal Ballot Regulations requires re-consideration and modification to cover the voting results of the election of the directors.</p> <p>ICAP: The format of the Annexure IV of the draft Postal Ballot Regulations requires further clarity and explanation relating to the content/ extent of information to be provided in the scrutinizer report under the section 'Resolutions'.</p> <p>CDC Share Registrar: 'Annexure IV' renamed as 'Annexure III' and the format</p> | <p>Agreed. Revisions made in the annexure.</p> <p>Agreed. Annexure IV renumbered as Annexure III and Changes have been made accordingly.</p> <p>Agreed.</p> |

| Current Regulation | Proposed Amendments placed for public comments | Revised Amendments in Regulation | Public Comments Received | SECP Comments |
|---------------------------|---|---|--|----------------------|
| | | | should have 'result of the voting' for resolutions and 'Election of Directors' with addition of results of voting casted in person, through proxy and through Electronic voting. | |