

GOVERNMENT OF PAKISTAN
SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

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Islamabad, the 24th April, 2018

NOTIFICATION

S. R. O. 519(I)/2018.- In exercise of powers conferred by sub-section (4) of Section 169 of the Securities Act, 2015 (III of 2015) and sub-section (1) of section 114 read with sections 23, 24, 35, 37 and 95 of the Futures Market Act, 2016, (XIV of 2016), the Securities and Exchange Commission of Pakistan hereby makes the following amendments to the Clearing Houses (Licensing and Operations) Regulations, 2016, the same have been previously published in the official Gazette vide S.R.O. 1226(I)/2017, dated 30th November 2017 and also placed on its website as required under sub-section (4) of Section 169 and sub-section (1) of Section 114 of the said Acts, namely:-

In the aforesaid Regulations,-

- (1) in the preamble, after the expression “Securities Act, 2015” the expression “and sub-section (1) of Section 114 read with Sections 23, 24, 35, 37 and 95 of the Futures Market Act, 2016, (XIV of 2016)” shall be substituted;
- (2) in regulation 2,-
 - (a) in sub-regulation (1),-
 - (i) after clause (a), the following new clause (ab) shall be inserted, namely:-

“(ab) “Companies Act” means the Companies Act, 2017 (XIX of 2017);”;
 - (ii) after clause (b), the following new clause (ba) shall be inserted, namely:-

“(ba) “Futures Act” means the Futures Market Act, 2016, (XIV of 2016);”;
 - (iii) in clause (c), for the words “of the Act” the expression “of the Act and clause (47) of Section (2) of Futures Act,” shall be substituted; and
 - (iv) clause (e), shall be omitted;
 - (b) in sub-regulation (2), for the expression “the Ordinance” the expression “the Futures Act, the Companies Act,” shall be substituted;

(3) in regulation 3,-

(a) for sub-regulation (1), the following shall be substituted, namely:-

“(1) Subject to compliance with the requirements of Sections 22 and 23 of the Act or Futures Act, as the case may be, and these regulations, an application for grant of license as a clearing house under the Act shall be submitted to the Commission on the format as provided in **Form A** and an application for license as a clearing house under Futures Act shall be submitted to the Commission on the format as provided in **Form C.**”;

(b) in sub-regulation (2),-

- (i) after the word “clearing house” appearing for the first time, the words “under the Act or the Futures Act” shall be added;
- (ii) after the words “license fee” the words “for each license” shall be added;
- (iii) in clause (iii), for the expression “; and” the expression “or Futures Act, as applicable;” shall be added;
- (iv) after clause (iii), amended as aforesaid, the following new clause shall be added, namely:-

“(iiia) in case of application of license as a clearing house under the Act, the copies of agreements entered into by the applicant with securities exchange and central depository for performing functions allowed under the Act and these regulations; and”;

(v) for clause (iv), the following shall be substituted, namely:-

“(iv) in case of application of license as a clearing house under the Futures Act, copies of agreements with futures exchange for performing functions allowed under the Futures Act and these regulations:

Provided that an existing clearing house holding a valid license under the Act, may not be required to submit any documents or information unless otherwise required by the Commission, to obtain a license under the Futures Act, to act as a clearing house.”; and

(c) in sub-regulation (5), for the expression “(iv) of sub-regulation (2),” the expression “(iiia) or (iv) of sub-regulation (2), as the case may be,” shall be inserted;

(4) in regulation 4,-

(a) in sub-regulation (1),-

- (i) in clause (a), after the word “Act” the expression “or Futures Act, as the case may be,” shall be added; and
 - (ii) in clause (b), after the word “Act” the expression “or Futures Act, as the case may be,” shall be added;
 - (b) in sub-regulation (2), after the word “Act” the expression “or Futures Act, as the case may be,” shall be added;
 - (c) in sub-regulation (3),-
 - (i) in clause (b), after the word “Act” the expression “or Futures Act, as the case may be,” shall be added; and
 - (ii) for the expressions “may grant a license to the applicant in **Form-B**, as under the sub-section (4) of Section 24 of the Act subject to the conditions as provided in regulation 5” the expressions “may grant a license to the applicant on the format as provided in **Form-B or Form-D**, as under the sub-section (4) of Section 24 of the Act or Futures Act, as the case may be, subject to the conditions as provided in regulation 5” shall be substituted;
- (5) in regulation 5,-
 - (a) in sub-regulation (1),-
 - (i) after the word “Act” the expression “or Futures Act, as the case may be,” shall be added;
 - (ii) in clause (f), after the expression “securities exchanges” wherever appearing, the expression “or futures exchanges” shall be inserted;
 - (iii) in clause (k), after the word “Act” the expression “or Futures Act, as the case may be,” shall be added;
 - (iv) in clause (l), after the word “Act” the expression “or Futures Act, as the case may be,” shall be added; and
 - (v) in clause (n), after the expression “securities exchange” the expression “or futures exchanges” shall be inserted;
- (6) in regulation 8,-
 - (a) in sub-regulation (1), in clause (c), in sub-clause (iii), after the expression “securities market” the expression “or futures market” shall be inserted; and
 - (b) in sub-regulation (2), in clause (d), after the word “Act” the expression “or Futures Act”, shall be added;
- (7) in regulation 15, for sub-regulation (1), the following shall be substituted, namely:-

“(a) A clearing house licensed under the Act or Futures Act, as the case may be, shall establish and maintain a fund under irrevocable trust by constituting a trust deed not inconsistent with the provisions of the Act or Futures Act and rules or

regulations made thereunder, for guaranteeing to its clearing members the performance of market contracts.”;

- (8) in regulation 16, for the word “Ordinance” the words “Companies Act” shall be substituted;
- (9) in regulation 17, after the word “Act” wherever appearing, the expression “or Futures Act” shall be inserted;
- (10) in regulation 18,-
 - (a) in sub-regulation (3), in clause (a), after the word “Act” the expression “or Futures Act” shall be inserted; and
 - (b) in sub-regulation (5), for the word “Ordinance” the words “Companies Act” shall be substituted;
- (11) in regulation 19,-
 - (a) after the word “Act” wherever appearing, the expression “or Futures Act” shall be inserted; and
 - (b) after the word “securities” wherever appearing, the expression “or futures contracts” shall be inserted;
- (12) after Form B, the following new Forms shall be inserted, namely:-

“FORM C

Application for Grant of License as a Clearing House (for futures market) under Regulation 4

Securities and Exchange Commission of Pakistan
Islamabad

Subject: Application for grant of license as a clearing house for the futures market under regulation 4 of the Clearing Houses (Licensing and Operations) Regulations, 2016

Dear Sir,

We/I on behalf of (name and address of applicant) hereby apply for grant of license as clearing house for the purposes of the Futures Market Act, 2016 and the Clearing Houses (Licensing and Operations) Regulations, 2016.

All the necessary information required under the laws is enclosed. Any additional information will be furnished as and when called for by the Commission.

We/I, on behalf of the applicant, hereby undertake to comply with the requirements of the laws and such other conditions and terms as may be communicated while granting the license or imposed subsequently.

Bank Challan No.....dated.....evidencing payment of license fee of rupees one million and collection charges into the designated bank account of the Securities and Exchange Commission of Pakistan is also enclosed

Yours sincerely,

Authorised signatory

FORM D

The Securities and Exchange Commission of Pakistan

License of a Clearing House under Section 24 of the Futures Market Act, 2016

The Securities and Exchange Commission of Pakistan, having considered the application for grant of license under regulation 4 of the Clearing Houses (Licensing and Operations) Regulations, 2016 by (name and address of clearing house).... and being satisfied that it would be in the interest of the futures market and also in the public interest so to do, hereby grants license, in exercise of the powers conferred by Section 24 of the Futures Market Act, 2016, to the said clearing house on the (date)..... subject to the condition of payment of annual renewal fee of rupees one million and any other conditions as stated in the attached letter or as may be imposed hereafter.

Seal of the Commission

Signature of Officer

Islamabad”

(13) in Annexure I,-

- (a) in the section “APPLICATION AND SCOPE” for the word “Ordinance” the words “Companies Act” shall be substituted;
- (b) in clause (a), in sub-clause (iii), for the expression “commodity” the expression “futures exchange” shall be substituted;
- (c) in clause (b), in sub-clause (i), in the proviso, for the expression “commodities market” the expression “futures or commodities markets” shall be substituted;
- (d) in clause (d),-
 - (i) for sub-clause (i), the following shall be substituted, namely:-
“(i) The person should not have been convicted in any criminal offence or involved in any fraud/forgery, financial crime etc. in Pakistan or elsewhere, or is not being subject to any pending proceedings leading to such a conviction and / or it has not been

concluded by any regulatory authority that he has been associated with any unauthorized financial activity including illegal brokerage business.”;

- (ii) sub-clause (ii) shall be omitted;
- (iii) for sub-clause (iii), the following shall be substituted, namely:-

“(iii) No investigation/ enquiry, conducted under Section 139 of the Act, Section 83 of the Futures Act, Section 29 of the Securities and Exchange Commission of Pakistan Act, 1997, Section 21 of the Securities and Exchange Ordinance, 1969, Section 256 or Section 257 of the Companies Act, has been concluded against him by the Commission with material adverse findings or any settlement in civil/criminal proceedings particularly with regard to investments, financial matters/business, misconduct, fraud, formation or management of a corporate body etc by any regulatory authorities (within or outside Pakistan), professional bodies or government bodies/agencies.”;

- (iv) in sub-clauses (iv) after the expression “securities exchange” the expression “or the futures exchange” shall be inserted;
- (v) in sub-clause (vi), for the expression “securities exchange” the expression “securities or futures exchange” shall be substituted;
- (vi) in sub-clause (viii), for the word “Ordinance” the words “Companies Act” shall be substituted; and
- (vii) in clause (e), in sub-clause (iv), for the expression “securities exchange” the expression “securities or futures exchange” shall be substituted;

(14) in Annexure II,-

- (a) for clause (c), the following shall be substituted, namely:-

“(c) endeavor to ensure that the clearing house abides by all the provisions of the Securities Act, 2015, the Futures Market Act, 2016, the Companies Act, 2017 these regulations and other applicable rules, regulations, codes, guidelines, circulars and directions issued by the Commission from time to time;”;


- (b) in clause (f), for the expression “securities market” the expression “securities or futures market” shall be substituted; and
- (c) in clause (h), after the word “securities” the words “or futures contracts” shall be inserted; and

(15) in Annexure III, in clause (2),-

- (i) in sub-clause (i) after paragraph (a), the following new paragraph shall be inserted, namely:-
“(ab) Futures Market Act, 2016;”

- (ii) in paragraph (c), for the expression “Companies Ordinance, 1984” the expression “Companies Act, 2017” shall be substituted; and
- (iii) in paragraph (e), after the expression “Securities Act, 2015” the expression “and Futures Market Act, 2016” shall be inserted;

[No. SY/SECP/8/13]



(Bilal Rasul)

Secretary to the Commission