

GOVERNMENT OF PAKISTAN
SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

NOTIFICATION

Islamabad, the 6th April, 2016

S.R.O. 315 (I)/2016.- In exercise of powers conferred by sub-section (1) of section 154 and sub-section 4 of section 156 read with clause (jj) of subsection (2) of section 169 of the Securities Act, 2015 (III of 2015), Securities and Exchange Commission of Pakistan hereby makes the following Regulations, the same being previously published in Official Gazette vide S.R.O. 1290(I)/2015 dated December 29, 2015 and also placed on its website as required under sub-section (4) of section 169 of said Act, namely:-

1. Short title and commencement.- (1) These Regulations shall be called the Securities and Exchange Commission of Pakistan (Opportunity of Hearing) Regulations, 2016.

(2) These regulations shall come into force at once.

2. Definitions.- (1) In these Regulations, unless there is anything repugnant in the context or subject:

- (i) "Act" means the Securities Act, 2015 (III of 2015);
- (ii) "Hearing" means legal proceeding where an issue of law or fact is tried and evidence is presented to help determining the issue;
- (iii) "Commission" means the Securities and Exchange Commission of Pakistan established under section 3 of the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997);

(2) Words and expressions not defined herein shall have the same meaning as ascribed thereto in the Act, the Companies Ordinance, 1984 and the Central Depositories Act, 1997 or any rules and regulations made thereunder.

3. Initiation of regulatory hearing. – (1) When opportunity of hearing is to be provided to a licensed person under the Act, the opportunity shall be provided

through a notice of opportunity of hearing or show cause notice issued by the Commission.

(2) The notice of opportunity of hearing or show cause notice shall inter-alia include:

- (i) the brief description of licensed person;
- (ii) brief description of facts;
- (iii) reasons of initiating action by the Commission and the alleged violations by the licensed person;
- (iv) relevant provision of legal framework enabling Commission to initiate such action;
- (v) date, place and time of hearing and deadline within which the written statement or reply is to be provided;
- (vi) the name, official address, phone number of the employee of the Commission to whom licensed person will contact in case of any query;
- (vii) the maximum penalty which may be imposed upon the regulated person if the offence is established;
- (viii) Any other relevant information.

(3) The notice of opportunity of hearing or show cause notice shall be served in any of the following modes:

(a) To a natural person:

- (i) by delivering it to the person personally and receiving an acknowledgement of the same;
- (ii) by sending it by courier service or registered post to, the address of the place of residence or business of the person last known to the person serving the notice or document;
- (iii) by sending it by facsimile to the person's facsimile number last notified to the person giving the notice or document; or
- (iv) by sending it by email to the person's email address last known to the person serving the notice or document;

(b) To a company or other body corporate:

- (i) by sending it by courier service or registered post to, its registered office;
- (ii) by sending it by facsimile to the company's or body corporate's facsimile number last notified to the person giving the notice or document; or

- (iii) by sending it by email to such company or body corporate's email last known to the person serving the notice or document.

(c) To a partnership firm:

- (i) by sending it by courier service or registered post to, the address of the place of business of the partnership firm last known to the person serving the notice or document;
- (ii) by sending it by facsimile to the facsimile number of the partnership firm; or
- (iii) by sending it by email to such addressee's email address which has been submitted to the Commission for the giving of notices or documents to such addressee.

(d) To an employee of any company or other body corporate or partnership firm:

- (i) by delivering it to the person personally and receiving an acknowledgement of the same;
- (ii) by sending it by courier service or registered post to, the address of the place of residence or business of the person last known to the person serving the notice or document;
- (iii) by sending it by facsimile to the person's facsimile number last notified to the person giving the notice or document; or
- (iv) by sending it by email to the person's email address last known to the person serving the notice or document;

Explanation. -

- (i) Notice or document sent by registered post or courier service shall be taken to be received on the 3rd business day after the notice or document, is sent in a correctly addressed envelope;
- (ii) A notice or document sent by facsimile shall be taken to be received when the sender's facsimile machine indicates a successful transmission to the correct facsimile number; and
- (iii) A notice or document sent by email shall be taken to be received by the addressee when the sender's computer indicates a successful transmission of such notice or document.

4. Right to Counsel. - Any party to a hearing under the Act has the right at all times to be advised and accompanied by its legal counsel and financial and fiscal advisors.

5. **Attendance through representative(s).**- The hearing may be attended by the licensed person to whom the notice or show cause notice is sent in person or through an authorized representative.

6. **Adjournments.**- (1) The hearings shall be completed in one go, unless sufficient cause is shown by the parties, jointly or severally, which is beyond the control of the parties.

(2) Notwithstanding the provision of sub-regulation (1) the Commission may in the interest of justice and on personal ground, adjourn the hearing for maximum of two dates and such adjournment shall not be more than fifteen days at any one time or for more than thirty days.

(3) If the person requests in writing and states reasonable grounds for change of place of hearing, such hearing may be held at nearest Company Registration Office subject to availability of necessary facilities.

7. **Notice Period.** The noticee shall be called upon to submit within a period to be specified in the notice, from the date of service thereof, a written representation along with documentary evidence, if any, in support of the representation to the designated authority.

8. **Right to fair hearing.**- (1) The Commission shall ensure that a fair opportunity is provided to the parties during the hearing to explain their stance and put forth their arguments.

(2) The hearing shall be conducted by an officer or employee of the Commission who has had no prior involvement with respect to the subject matter of the case.

(3) A hearing may be conducted through video conferencing facility or through any other electronic communication system deemed appropriate by the person conducting the hearing on behalf of the Commission.

(4) All pleadings and motions, all recordings or transcripts of oral hearings or arguments, all written direct testimony, all other data, studies, reports, documentation, information, and other written material of any kind submitted during hearing, shall be maintained by the Commission and made available to the parties.

(5) Evidentiary hearings shall be properly recorded and documented.

[No. SMD/BO/POL/01/2015]

Bushra
6/4/16

Bushra Aslam
Secretary to the Commission