

**Government of Pakistan  
Securities and Exchange Commission of Pakistan**

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*Islamabad, the 7<sup>th</sup> September, 2017*

**NOTIFICATION**

**S.R.O. 909 (I)/2017.** - The following draft Professional Clearing Members Regulations, 2017 proposed to made by Securities and Exchange Commission of Pakistan in exercise of powers conferred by sub-section (1) of section 169 read with sections 68, 69, 75, 76, 77, 78, 79, 80, 82, 84 and 151 of the Securities Act, 2015 (III of 2015), are hereby published for the information of all persons likely to be affected by these Regulations and notice is hereby given that objections and suggestions, if any, received within the next fourteen days from the date of its placement of the Commission's website will be taken into consideration, namely:-

**CHAPTER I**

**PRELIMINARY**

**1. Short title and commencement.** - (1) These regulations shall be called the Professional Clearing Members (Licensing and Operations) Regulations, 2017.

(2) They shall come into force at once.

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

- (a) "Act" means the Securities Act, 2015 (III of 2015);
- (b) "Annexure" means annexures appended to these regulations;
- (c) "Companies Act" means the Companies Act, 2017 (XIX of 2017);
- (d) "customer" for the purposes of this regulations includes a securities broker licensed under the category of 'Trading Only' and customers of such securities brokers;
- (e) "customer bank account" means the bank account opened by the professional clearing member with a scheduled bank in Pakistan wherein all customer money is deposited and maintained;
- (f) "customer custody account" means a sub-account in the central depository system opened by the professional clearing member for depositing and holding securities owned by a customer;
- (g) "Form" means forms appended to these regulations;
- (h) "professional clearing services" includes services for clearing, settlement and custody of securities for customers;
- (i) "professional clearing member" means a company licensed under these regulations to provide professional clearing services; and

- (j) “scheduled bank” has the same meaning as defined in clause (m) of section 2 of the State Bank of Pakistan Act, 1956 (XXXIII of 1956).

(2) Words and expressions used but not defined in these regulations shall have the same meaning as assigned to them in the Act, the Companies Act, the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997), Central Depositories Act, 1997 (XIX of 1997), and any rules or regulations made thereunder.

## CHAPTER II

### LICENSING

**3. Application and procedure for granting a licence.** - (1) Subject to regulation (2), an application for grant of a licence as a professional clearing member shall be made to the Commission in Form A along with all the information and documents specified in “Annexure A” and receipt evidencing payment of non-fundable fee of such amount as specified in “Annexure B”.

(2) The Commission, while considering the application for license, may require the applicant to furnish such further information or clarification as it may deem appropriate.

(3) The applicant shall, if so required, appear before the Commission for a representation through a person duly authorized for this purpose in writing by the board of directors of the applicant.

(4) Any subsequent change in the information provided to the Commission at the time of filing of application under sub-regulation (1) and (2) above shall immediately be intimated to the Commission but not later than five working days from the date of such change.

**4. Grant of licence.** - (1) The Commission, while considering the application for granting a licence, shall *inter-alia* take into account the following matters, -

- (a) the applicant meets the requirements including licensing conditions as provided in the Act and these regulations;
- (b) the applicant has the ability to efficiently handle its functions as a professional clearing member and fulfill its obligations under the Act and these regulations; and
- (c) the applicant has the necessary financial resources, policies, procedures, systems and controls to effectively and efficiently discharge its responsibilities as a professional clearing member.

(2) The Commission, upon being satisfied after conducting such inquiries and obtaining such further information as it deems appropriate that, -

- (a) the applicant is eligible for a licence;
- (b) the applicant is in compliance with the provisions of the Act, these regulations and any directives, guidelines or codes issued thereunder; and

- (c) it is in the public interest and interest of capital market,

may grant a licence to the applicant in Form B for a period of one year under the provisions of the Act and also communicate this to the securities exchange, clearing house and central depository:

Provided that while granting licence to a professional clearing member, the Commission may seek additional information from other Government agencies or regulatory bodies including obtaining credit information bureau (CIB) reports and may also conduct a pre-licence assessment or a visit of the premises of the applicant to verify the genuineness of information submitted.

(3) Nothing in these regulations shall affect the power of the Commission to restrict, suspend or cancel the licence of a professional clearing member under the Act or all of the events as mentioned therein have occurred or the professional clearing member fails to comply with any of the requirements of these regulations.

**5. Renewal of licence.** - (1) Subject to the provisions of the Act and these regulations, a professional clearing member shall, one month prior to the date of expiry of its licence, apply to the Commission in Form C along with receipt evidencing payment of non-refundable renewal fee of such amount as specified in "Annexure B".

(2) The Commission shall, upon being satisfied that the applicant continues to meet the requirements for licensing, is in compliance with the provisions of the Act, rules, regulations and any directives/guidelines/codes issued thereunder and it is in the public interest and interest of the capital market, renew the licence for one year and issue a certificate of renewal of licence to the applicant in the Form D.

(3) Where the application for renewal of licence is made within such time as provided in sub-regulation (1) but has not been decided by the Commission, the licence of the professional clearing member shall continue to be valid until the application for renewal is decided by the Commission.

(4) While renewing the licence of a professional clearing member the Commission may, in addition to the criteria laid down for grant of licence, also take into account the past track record and history of regulatory compliance of the professional clearing member, its sponsors, directors and senior management officers.

(5) The Commission shall send an intimation of renewal of licence of the professional clearing member to the securities exchange, clearing house and central depository.

**6. Procedure where licence is not granted or renewed.** - (1) The Commission, after giving a reasonable opportunity of hearing to the applicant, may refuse to grant or renew a licence if in the opinion of the Commission such applicant does not fulfill the requirements specified under the Act and these regulations and where the Commission after taking into account the facts, is of the view that it is not in the public interest or in the interest of the capital market to grant or renew a licence.

(2) The applicant, if aggrieved by the decision of the Commission under sub-regulation (1), may, within a period of thirty days from the date of receipt of such refusal,

prefer an appeal to the appellate bench of the Commission under section 33 of the Securities and Exchange Commission of Pakistan Act, 1997.

(3) A professional clearing member whose application for renewal of licence is refused shall immediately inform all its existing customers, settle all dues of the customers within fifteen days and shall remain responsible to meet clearing and settlement obligations arising out of trades executed up to the date on which it has been working as a professional clearing member.

(4) The Commission shall communicate its decision of refusal to grant or renew the licence to the applicant or professional clearing member, as the case may be, to the securities exchange, central depository and clearing house forthwith and in the case of refusal to renew the licence may also publish such fact in a newspaper of wide circulation in Pakistan.

**7. Cancellation of licence.** - (1) A professional clearing member may apply to the Commission for cancellation of its licence along-with a confirmation that it has informed all its existing customers, settled all dues and pending claims of the customers and has completed all formalities for closure of business.

(2) The Commission may, after being satisfied that all formalities for closure of business including settlement of customer claims have been completed, cancel the licence of such professional clearing member:

Provided that the Commission may impose such conditions as it deems appropriate at the time of such cancellation of licence.

(3) The Commission may cancel the licence granted to a professional clearing member in accordance with the provisions of the Act and/or where-

- (a) the professional clearing member is declared defaulter by the clearing house and the reason for such declaration is not removed within a period of six months from such declaration; or
- (b) the admission of professional clearing member as clearing member or CDS participant is terminated;
- (c) the professional clearing member is declared insolvent by a Court;
- (d) the professional clearing member fails to apply for renewal of licence within the specified time; or
- (e) the licence is suspended by the Commission and such suspension has not been revoked till the time of expiry of licence issued to the professional clearing member

(4) A professional clearing member whose licence is cancelled under sub-regulation (3) shall inform all its existing customers, settle all dues of the customers within fifteen days and shall remain responsible to meet clearing and settlement obligations arising out of trades executed up to the date on which it has been working as a professional clearing member.

(5) The Commission shall send an intimation of cancellation of licence of a professional clearing member to the securities exchange, clearing house and central

depository and may also publish the order of cancellation in a newspaper of wide circulation in Pakistan.

### **CHAPTER III**

#### **LICENSING CONDITIONS**

**8. Licensing conditions.-** Subject to compliance with the provisions of the Act and any other requirements or conditions specified in these regulations, a company may apply to the Commission in the manner as provided in regulation 3 for grant of licence as professional clearing member, if it ensure that, -

- (a) memorandum and articles of association allow it to apply for grant of licence as a professional clearing member under the Act;
- (b) the applicant does not hold, directly or indirectly, a TRE certificate;
- (c) the applicant is not an associate of a TRE certificate holder provided that this condition shall not be applicable in case of a bank or its subsidiary;
- (d) the applicant, its sponsors, directors and senior management officers are fit and proper persons as per the criteria specified in Annexure C and while evaluating fit and proper criteria in respect of sponsors of the applicant, the fit and proper criteria shall also be applied to the extent practical on the majority shareholders and directors of such sponsors; and
- (e) the applicant has financial resources, shareholding and governance structure as provided in these regulations.

**9. Financial resources requirement.-** An applicant seeking license as professional clearing member under regulation 3 shall have an initial paid-up capital and net-worth of not less than rupees two hundred and fifty million:

Provided that the Commission may, while granting licence or subsequently, require the applicant to maintain a higher paid-up capital and net-worth in a progressive manner.

**10. Composition of board of directors and related matters. -** (1) An applicant seeking license as professional clearing member under regulation 3 shall have following categories of directors:

- (a) Independent directors;
- (b) shareholder directors; and
- (c) Chief executive officer.

(2) The professional clearing member shall not have any director associated with a TRE certificate holder on its board of directors and shall have independent directors not less than one third of its total directors.

(3) At least one independent director shall be present in the meeting of board of directors of the professional clearing member to constitute the quorum.

(4) Every director and senior management officer of a professional clearing member shall abide by the code of conduct to be formulated by the professional clearing member.

**11. Shareholding requirements.-** (1) No person other than the following shall, directly or indirectly, acquire or hold shares of a professional clearing member:

- (a) a licensed local or a foreign bank operating in Pakistan or a subsidiary of such bank;
- (b) a financial institution operating as a development finance institution, an insurance company or a non-banking finance company;
- (c) a central depository;
- (d) any of the following institutions subject to compliance with the conditions provided under sub-regulation (2)-
  - (i) a local or foreign body corporate constituted or recognized for providing trading, custodial, clearing or settlement services in the securities market as may be notified by the Commission;
  - (ii) an institution engaged in providing financial services established outside Pakistan as may notified by the Commission; or
  - (iii) any other institution as may be notified by the Commission from time to time subject to conditions specified by the Commission.

(2) Shareholding in a professional clearing member by institutions referred to in clause (d) of sub-regulation (1) shall be subject to the following conditions, namely:-

- (a) the institution or any of its sponsors or directors are not TRE certificate holders;
- (b) the institution or any of its sponsors or directors are not associated person(s) of a TRE certificate holder or any of its sponsors or directors;
- (c) it complies with the capital requirements specified under the relevant provisions of applicable laws;
- (d) its license for providing any financial services has not been suspended or cancelled by any regulatory authority during the last five years;
- (e) no investigation or enquiry conducted under the relevant laws has been concluded against it by the Commission, State Bank of Pakistan, National Accountability Bureau, Federal Investigation Agency or any other regulatory or government body, with any material adverse findings;
- (f) an order restraining, prohibiting or debarring it from providing any financial services has not been passed by any regulatory authority, government body or agency or a court of law; and
- (g) it has not been declared defaulter in payment of taxes to the federal government.

**12. Additional conditions.** - A professional clearing member licensed by the

Commission shall be subject to the following additional conditions-

- (a) within three months of the grant of licence and prior to commencement of business as professional clearing member, it has -
  - (i) obtained approval of the Commission of its operational model *inter alia* covering therein, transactions flow, manner of execution of transactions, roles and responsibilities of professional clearing member and customers, risk management parameters, default handling mechanism, dispute and grievance handling mechanism;
  - (ii) developed and implemented an automatic order routing mechanism, based upon the approved operational model;
  - (iii) been admitted as a clearing member by the clearing house enabling it to clear and settle trades executed by its customers;
  - (iv) been admitted as a participant by the central depository enabling it to maintain segregated customer custody accounts;
  - (v) employed personnel with sufficient education, experience and expertise to allow the professional clearing member to carry out its obligations in accordance with the applicable regulatory framework;
  - (vi) developed and implemented risk management system, internal control and policies and procedures to ensure effective compliance with the applicable regulatory framework;
  - (vii) put in place infrastructure including but not limited to adequate office space, equipment and technical aspects including appropriate arrangement for clearing, settlement and custodian services, to effectively and efficiently discharge its responsibilities as a professional clearing member with capacity for ongoing maintenance of the same; and
  - (viii) established and maintained connectivity with the central depository(ies), clearing banks, securities exchanges and its customers and enter into service level agreements where required;
- (b) within six months of the grant of license it has submitted a certificate from an independent chartered accountant firm for appropriateness of controls and safeguards to ensure cyber security, access to confidential information and alteration, destruction, disclosure or dissemination of records and data;
- (c) the applicant has documented business continuity plan including a disaster recovery site or shall develop the disaster recovery site within the time limit specified by the Commission;
- (d) the applicant shall continuously improve the quality and efficiency of its systems and procedures, including the attainment of relevant

internationally recognized certifications;

- (e) the applicant has put in place necessary controls and safeguards to ensure cyber security, access to confidential information and alteration, destruction, disclosure or dissemination of records and data;
- (f) the applicant has put in place necessary arrangements for resolving disputes and redressal of grievances arising out of clearing and settlement of trades and custody of securities;
- (g) the applicant shall comply with the code of corporate governance for listed companies to the extent consistent with the provisions of the Act or these regulations;
- (h) the applicant shall ensure that its memorandum and articles of association contain no provision inconsistent with the provisions of the Act and these regulations and that no change is made in its memorandum and articles of association except with the prior written approval of the Commission;
- (i) the sponsors and majority shareholders have submitted an undertaking that they shall not enter into any agreement for transfer or sale of shares of the applicant without prior approval of the Commission and its directors shall not register or allow the transfer of any of its shares without prior written approval of the Commission;
- (j) prescribe a code of conduct for all its employees and ensure compliance with the same; and
- (k) comply with any other condition(s) as may be imposed by the Commission.

## **CHAPTER IV**

### **CONDUCT OF A PROFESSIONAL CLEARING MEMBER**

**13. Invitations and Advertisements.** - (1) A professional clearing member shall not publish, circulate or distribute any advertisement or any information which is false, misleading or deceptive.

(2) A professional clearing member shall not publish, circulate or distribute any advertisement which contains any statement that any report, analysis or other service will be furnished free or without charge, unless such report, analysis or service is in fact or will in fact be furnished in its entirety and without any condition or obligation.

(3) The advertisement shall not promise or guarantee any return or make any exaggerated statement or presentation to exploit an individual's lack of experience and knowledge and should not include any other thing which otherwise is prohibited.

(4) The advertisement shall be legible, written in clear language, and should not be such which may prejudice interest of the investors in general.



(5) The advertisement shall not have any adverse reference regarding the reputation of any other professional clearing members or a participant of the securities market.

**14. Disclosure of financial risks.** - (1) A professional clearing member shall not commence business with a customer unless such professional clearing member provides the customer with a risk disclosure document *inter alia* containing the basic risks involved in clearing, settlement and custody of securities.

(2) The professional clearing member shall obtain a written acknowledgment duly signed and dated by the customer confirming that such customer has understood the nature and contents of the risk disclosure document.

**15. Conflict of interest.** - (1) The professional clearing member shall take all reasonable steps including the framing of appropriate policies and procedures to minimize conflict of interest between such professional clearing member and its customers.

(2) The professional clearing member must take reasonable steps to ensure that neither such professional clearing member nor any of its employees or accredited representatives either offers or gives, or solicits or accepts, any inducement that is likely to conflict with any duties owed to the customers.

(3) The professional clearing member shall put in place a mechanism and take steps to avoid and eliminate the misalignment of incentives due to conflict of interest between the compensation of senior management officers, employees and accredited representatives of the professional clearing member and interest of the customers.

(4) The professional clearing member shall disclose the names of such persons to its customers who are working as its accredited representatives.

(5) The professional clearing member shall put in place a mechanism to resolve any conflict of interest that may arise in the conduct of business and take all reasonable steps to resolve all conflict of interests in an equitable manner.

(6) The professional clearing member shall make appropriate disclosure to customers of possible source or potential areas of conflict of interest which could impair its ability to render fair, objective and unbiased service.

(7) In case of any breach of policies by its employees and accredited representatives, the professional clearing member shall promptly investigate, and take appropriate action against the persons responsible.

**16. Confidentiality.** - (1) The professional clearing member must have in place proper systems and controls along with clearly documented policies and procedures reasonably designed, for ensuring confidentiality of information in relation to its business as a professional clearing member.

(2) The professional clearing member must establish 'Chinese walls' including policies and physical apparatus designed to prevent the improper or unintended dissemination of market sensitive information from one division or department to another.

(3) The professional clearing member and its employees and accredited representatives shall neither profit nor seek to profit from confidential information, nor provide such information to anyone with the objective of making profit for itself or for its customers.

(4) The professional clearing member and its employees and accredited representatives shall not disclose or discuss with any other person other than normal course of business or make improper use of the details of investments of customers and other information of confidential nature of a customer.

**17. Duties and obligations of a professional clearing member.** - (1) In addition to the requirements provided under the Act a professional clearing member shall-

- (a) ensure fair treatment of its customers, not discriminate amongst them,
- (b) prominently display the licence granted by the Commission;
- (c) exercise due care and diligence while handling unsubstantiated market information or non-public price sensitive information;
- (d) take reasonable steps to ensure that any agreement, written communication, notification or information that such professional clearing member gives or sends to customers to whom the services are to be provided or are being provided is presented fairly and clearly and adequate details regarding the services to be provided by the professional clearing member are covered therein;
- (e) ensure that it has adequate infrastructural systems with reliable back up procedures;
- (f) ensure compliance with all legal and regulatory requirements applicable to the conduct of its business activities so as to promote the best interests of customers and the integrity of the securities market;
- (g) remain in compliance with the licensing requirements at all times and inform the Commission immediately when it is non-compliant with any of the said requirements;
- (h) establish an internal code of practice, aimed at ensuring that members of the board, directors, employees and accredited representatives act in accordance with the best interests of its customers, the integrity of the market and are in compliance of the Act, these regulations and any other applicable laws, guidelines, directives, circulars etc.;
- (i) ensure that Know Your Customer and Customer Due Diligence is being conducted properly in accordance with the relevant regulatory framework;
- (j) ensure that the credit worthiness of its customers is evaluated through

a proper credit risk assessment methodology and trading limits are assigned to each customer beyond which the customer shall not be allowed to take a position;

- (k) ensure that its sponsors, directors, accredited representatives and employees exercise due care and responsibility while interacting with the media, and making any statement regarding any regulatory authority, the securities market or any participant thereof on any forum/channel;
- (l) inculcate a culture of compliance of the regulatory requirements through ongoing education and training of its directors, employees and accredited representatives; specify and enforce any appropriate sanctions for breach by its directors, employees and accredited representatives of any policies and procedures regarding market conduct to deter such practices; and
- (m) ensure accuracy and completeness of the information shared or submitted by it to the clearing house, central depository, securities exchange, Commission and any other forum.

(2) A professional clearing member shall not-

- (a) in any way contribute to manipulating the demand for or supply of securities in the market or to influence prices of securities, or indulge in any action that can detract from transparent and standard pricing on the securities markets;
- (b) maintain anonymous accounts or accounts that are opened or maintained in the name of fictitious persons;;
- (c) spread rumours or disseminate false or misleading information; and
- (d) appoint an auditor who is an associate of its director or a senior management officer.

(3) A professional clearing member shall ensure that it has properly designed internal control policies and framework which are duly approved and periodically reviewed by its board of directors and the same shall be widely disseminated for compliance by all employees and accredited representatives.

(4) A professional clearing member shall establish and implement a contingency plan to ensure continuity of its operations in the event of a disaster or crisis.

(5) A professional clearing member shall ensure-

- (a) compliance with the applicable requirements relating to the segregation of customers' assets as specified by the Commission and the securities exchange from time to time;
- (b) submission of returns and statements in relation to segregation of customers' assets including reconciliation of customer assets on such

frequency and on such formats as may be required by the securities exchange and/ or the Commission from time to time;

- (c) periodic audit of the statements, returns and reconciliations of customer assets as per the requirements of the securities exchange or in the manner specified by the Commission from time to time;
- (d) that necessary steps are taken to keep its total assets under custody within the threshold specified by the central depository or the Commission from time to time;
- (e) that the chief compliance officer appointed by the professional clearing member regularly monitors the customer assets, movements therein, and prepares necessary reconciliations and in case any discrepancy is observed or any instance of unauthorized use of customer assets or any violation of law with respect to segregation and safekeeping of customer assets is observed the same must be immediately rectified;
- (f) establishment of systems and controls for maintaining accurate and up-to-date records of customers' asset holdings including information specifying the amount, location, and ownership status of customer assets.
- (g) records under clause (f) should be maintained in a way that appropriately distinguishes the customer assets account of one customer of the professional clearing member from the customer assets account of another customer of the professional clearing member and from the assets of the professional clearing member itself, if any;
- (h) its systems and controls should provide for reconciliations on a regular basis, consistent with the volume of activity in the accounts, between internal accounts and records in relation to the customer assets and those of any third party with whom such customer assets are held; and
- (i) that an internal audit function, headed by a dedicated head of internal audit possessing relevant qualification and experience, is put in place.

**18. Establishment of relationship with customer.** - (1) A professional clearing member shall not commence business with a customer unless it has entered into an agreement with the customer, opened an account in the customer's name and completed all other requirements as may be specified by the securities exchange, clearing house or a central depository.

(2) A professional clearing member shall take reasonable steps to ensure that the identity, address and contact details of its customers are known and verified.

(3) A professional clearing member shall ensure that the information contained in the account opening form is updated, complete and correct and shall ensure that the mobile number and/or the email address of the customer is registered in the central depository's and clearing company's record as per the regulations of the central depository and the clearing company.

(4) A professional clearing member shall ensure maintenance of only true and correct information or particulars of its customers in the system and its records, and shall not change any detail provided by the customer in the official documents and records without prior approval of the customer and shall keep the record of such changes along with necessary documentary evidence.

(5) A professional clearing member shall hold in possession copies of documentation regarding the identity of customer and the identity of any representative of the customer.

(6) A professional clearing member must take reasonable care in evaluating that the customer has sufficient financial resources to settle the transactions the customer wishes to enter into.

**19. Segregation of customer money.** - (1) Customer money shall not form part of the assets of the professional clearing member for any purpose and shall not be available in any circumstances for payment of any debt or liability of the professional clearing member.

(2) A professional clearing member shall not use customer money for any purpose other than as allowed under the Act or any rules or regulations made thereunder.

(3) A professional clearing member who receives or holds customer money shall open separate designated bank accounts for every trading only securities brokers with a scheduled bank in Pakistan for such purpose and the title of the account shall reflect the same.

(4) A designated customer bank account shall be kept segregated from any account holding money belonging to the professional clearing member.

(5) A professional clearing member shall make arrangements to facilitate direct deposit of money by its customer into a designated bank account.

(6) A professional clearing member shall keep records of:

- (a) all amounts deposited into the designated bank account(s), specifying the customers on whose behalf the amounts are held and the dates on which the amounts were received;
- (b) all payments from the designated bank account(s), the dates of those payments, and the names of the customers on whose behalf the payments are made; and
- (c) such other particulars as may be specified by the Commission.

(7) No amount from customer bank account(s) shall be withdrawn in cash and all payments shall be made through cross cheques or other banking channels and where payment is made through cross cheques, the professional clearing member shall keep copy of the cheques issued for the purposes of record.

**20. Accounting for and use of customer money.** - (1) A professional clearing member shall properly account for customer money and ensure that, –

- (a) customer money is not mixed with other money;
  - (b) a professional clearing member can at all times calculate how much customer money stands to the credit of each customer; and
  - (c) money belonging to one customer is not used for another customer.
- (2) A professional clearing member shall not withdraw money received and deposited in the designated bank account otherwise than for the purpose of, –
- (a) making a payment to a person entitled to the money;
  - (b) meeting obligations emanating from dealing in securities effected by the professional clearing member on the instructions of a customer;
  - (c) defraying fee, charges or levies incurred in respect of dealing in securities effected by the professional clearing member on the instructions of a customer; or
  - (d) making a payment that is otherwise authorized by law.

**21. Segregation of other customer assets.** - (1) All customer assets (other than customer money) held or received by a professional clearing member on account of a customer shall be segregated and separately accounted for.

(2) A professional clearing member shall at all times keep such books as is necessary-

- (a) to show all handling of a customer's assets including relevant dates; and
- (b) to distinguish such customer assets held or received by it on account of each separate customer and to distinguish such customer assets from its own assets and other assets held or received by the professional clearing member.

(3) A professional clearing member shall maintain a separate sub-account under its participant account in the CDS for each of its customers to maintain the custody of all securities belonging to the customer including margins deposited by the customer.

(4) A complete audit trail of the transactions pertaining to customer's assets is to be maintained by the professional clearing member.

**22. Periodic reporting to the customer.** - (1) A professional clearing member shall, on quarterly basis or on any other periodic basis as deem fit by the Commission, furnish to the customer reports containing information regarding handling of securities, receipts and payments and the holding balances of customer's assets.

(2) A professional clearing member shall promptly provide to a customer any report or information pertaining to the account of such customer as and when requested by the customer.

**23. Customer Complaints.** - (1) A professional clearing member shall have internal procedures to ensure the proper handling of complaints received from customers and to ensure that appropriate remedial action on those complaints is promptly taken.

(2) A professional clearing member shall take all reasonable measures to redress customers' grievances promptly but not later than thirty days of receipt thereof and when called upon by the Commission or the securities exchange or any other regulatory body to do so it shall redress the grievances of customers within the time specified.

(3) A professional clearing member shall maintain records regarding customers' grievances received by it and redressal of such grievances.

(4) A professional clearing member shall at the end of each quarter submit information about the number of customer grievances received, redressed and those remaining unresolved beyond three months of the receipt to the Commission along with the reasons thereof for delay.

## **CHAPTER V**

### **ACCOUNTS AND AUDIT**

**24. General.** - The obligations and duties of a professional clearing member under these regulations with respect to audit and accounts are in addition to the requirements of the Companies Act, the rules and regulations made thereunder and any directives issued thereunder.

**25. Maintenance of books of accounts and other records.** - (1) A professional clearing member shall keep accounting and other records which shall sufficiently explain its business and transactions entered into (whether effected on its own behalf or on behalf of customers) and the financial position of the professional clearing member, and shall be such as to-

- (a) disclose with accuracy the financial position at that time;
- (b) enable the professional clearing member to prepare financial statements at any time and which comply with the requirements of law; and
- (c) demonstrate whether the professional clearing member is performing its regulated securities activity has adequate financial resources to meet its business commitments.

(2) A professional clearing member shall ensure that all books and records with respect to accounting and audit under these regulations are updated in a timely manner.

(3) A professional clearing member shall ensure that information which is required to be recorded under the Act and these regulations shall be recorded in such a way as to enable a particular transaction to be identified at any time and traced from initiation of the order to final settlement.

(4) All records required to be maintained under the Act and these regulations including records maintained in electronic form shall be recorded, arranged, filed, indexed and cross-referenced so as to permit prompt access to any particular record.

(5) A professional clearing member shall prepare and maintain books of accounts and other documents in a manner that will disclose a true, accurate and up-to-date position of business, including but not limited to: -

- (a) record of all assets and liabilities of the professional clearing member including any commitments or contingent liabilities;
- (b) journal (or other comparable record), cash book and any other books of original entry, forming the basis of entries into any ledger, the books of original entry;
- (c) ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts;
- (d) ledgers (or other comparable records) reflecting securities in transfer, securities borrowed and securities loaned and securities bought or sold;
- (e) record of all balance of all ledger accounts in the form of trial balances;
- (f) daily entries of all customer money which is deposited into or out of a designated bank account, where applicable;
- (g) record of transactions with the banks and the aggregate balances on designated bank accounts;
- (h) documents relating to opening of account of a customer with the professional clearing member;
- (i) documents relating to opening of the sub-account of the customers with the central depository;
- (j) documents of sub-account holders as per requirements of the central depository, where applicable;
- (k) record of individual customers' balances stating the name of each customer and the amount held or received for that customer;
- (l) record of the time, date and complete particulars of trade executed through its order routing mechanism;
- (m) registers of accounts of accredited representatives;
- (n) an agreement with an accredited representative specifying the scope of authority and responsibilities of the professional clearing member and accredited representative;
- (o) record of pledging or arranging for the pledging of any security carried for the account of any customer, where applicable;
- (p) record of extension or maintenance of credit or arranging for the extension or maintenance of credit to the customers for the purpose of purchasing or carrying any securities;



- (q) record of borrowings on any securities or lending or arranging for the lending of any securities carried for the account of the customer; and
  - (r) all other customer related records.
- (6) A professional clearing member shall maintain separate books of accounts for-
- (a) money received from or on account of and money paid to or on account of each of its customer; and
  - (b) the money received and the money paid on a professional clearing member, accredited representative or an associated person's own account.

**26. Preparation and submission of financial statements, -** (1) A professional clearing member shall prepare financial statements for each quarter, half year and for each financial year.

(2) The financial statements of the professional clearing member shall be prepared in compliance with the requirements of the Companies Act and accounting standards as directed by the Commission.

(3) A professional clearing member must also disclose in its annual financial statements the following-

- (a) customer assets held in the designated bank account or in the central depository system;
- (b) total value of pledged securities with financial institutions indicating separately securities belonging to customers;
- (c) income from dividends;
- (e) pattern of shareholding, giving names of persons holding more than 5 per cent shares and all changes in shareholding above 5 per cent; and
- (g) treatment of amount receivable from customers;

(4) A professional clearing member shall submit, within four months after the end of each financial year, its annual financial statements to the Commission along with its audit report.

**27. Appointment of auditor and related matters. -** (1) A professional clearing member shall ensure that the auditor appointed has *inter-alia* the powers and duties specified under sub-regulation 3 and-

- (a) those powers and duties are set out in an engagement letter;
- (b) the engagement letter is signed by the professional clearing member and the auditor; and
- (c) the professional clearing member retains a copy of the engagement letter.

(2) A professional clearing member shall, within seven days, give written notice to the Commission of the appointment, removal or resignation of an auditor.

(3) The auditor appointed by a professional clearing member shall have the right to, –

- (a) access the accounting and other records of the professional clearing member and all other documents relating to its business including the documents the professional clearing member is required to maintain under the Act and these regulations; and
- (b) require from the professional clearing member such information and explanations as the auditor considers necessary for the performance of duties.

(4) In preparing an audit report, the auditor shall carry out such investigations which will enable it to form an opinion as to the matters required by sub-regulation 5 to be stated in the auditor's report.

(5) The audit report shall state all the matters as are required to be stated in accordance with the requirements of the Companies Act and where applicable, must state additionally whether in the opinion of the auditor:

- (a) the professional clearing member has maintained throughout the financial year systems adequate to enable the auditor to identify with reasonable accuracy the assets held on behalf of customer and distinguish such assets from the assets of other customers and the proprietary assets of the professional clearing member;
- (b) the professional clearing member was in compliance with the requirements of section 78 of the Act and the relevant requirement of these regulations as at the date on which the balance sheet was prepared;
- (c) an adequate internal control system and compliance function commensurate with the size and nature of services performed by the professional clearing member was implemented during the period; and
- (d) the compliance officer performed its functions with efficiency during the year.

(6) If the auditor is of the opinion that one or more of the requirements of sub-regulation 5 have not been met, such opinion shall be stated in the report and the relevant requirements which have not been met shall be specified.

(7) Where an auditor resigns or is removed by the professional clearing member, a notice to that effect shall be sent to the Commission containing a statement signed by the auditor to the effect that there are no circumstances connected with his resignation or removal which the auditor considers should be brought to the attention of the Commission.

(8) A professional clearing member shall undergo a mandatory annual audit of its information technology systems and any other systems or functions as specified by the Commission from time to time.

(9) For the purposes of the audit specified in sub-regulation (8), the professional clearing member shall, with the prior approval of the Commission, appoint an independent

auditor with relevant expertise who shall conduct such audit in accordance with the following terms of reference, -

- (a) reviewing effective implementation of order routing mechanism and related controls, policies and procedures in light of the approved operational model;
- (b) reviewing appropriateness of controls and safeguards to ensure cyber security, access to confidential information and alteration, destruction, disclosure or dissemination of records and data;
- (c) reviewing the information processing facilities and integrity of systems for providing professional clearing services including-
  - (i) maintenance of security and confidentiality over the data of the trading only securities brokers and their customers;
  - (ii) security over the physical operations of such systems;
  - (iii) backup and disaster control and recovery procedures for such systems; and
  - (iv) access controls for central depository systems.
- (d) assessing the integrity and accuracy of information generated by the systems of professional clearing member including, without limitation-
  - (i) internal controls over data input by the professional clearing member; and
  - (ii) processing and reporting of transaction data; and
- (e) performing any other function or conducting audit of any other area as may be assigned by the Commission or professional clearing member at the time of appointment of such auditor.

(10) The report of audit conducted under sub-regulation (9) shall be submitted to the Commission within a period of four months from the close of financial year.

(11) Based on the findings and recommendations of the audit report submitted under sub-regulation (10), the Commission may require a professional clearing member to take appropriate actions within such time period as deem fit by the Commission.

## **CHAPTER VI**

### **MISCELLANEOUS**

**28. Appointment of chief executive officer, -** (1) A professional clearing member shall not appoint, renew appointment and terminate services of its chief executive officer without prior approval of the Commission and for this purpose the term “removal and/or termination” shall include non-renewal of his/ her contract.

(2) The board of directors of a professional clearing member shall determine the manner of appointment, terms and conditions of appointment and other procedural

formalities associated with the selection/ appointment of the chief executive officer.

(3) A chief executive officer shall be appointed by the professional clearing member through following process:

- (a) a professional clearing member shall shortlist names of three suitable persons meeting fit and proper criteria provided in these regulations and shall submit one name with its recommendation for approval of the Commission.
- (b) the Commission may, if satisfied that such person is suitable for appointment by the professional clearing member as its chief executive officer, grant its approval for the same.

Provided that, if the Commission is not satisfied with the suitability of the proposed persons for appointment as chief executive officer, it may refer the matter back to the professional clearing member for proposing other names after following the due process.

(4) The appointment of the chief executive officer shall be made for a period of three years' subject to renewal with the prior approval of the Commission.

**29. Appointment and functions of chief compliance officer, -** (1) A professional clearing member shall not appoint, renew and terminate services of its chief compliance officer without prior written approval of its board of directors.

(2) The board of directors of a professional clearing member shall determine the manner and process for appointment of the chief compliance officer.

(3) The chief compliance officer shall be a dedicated position and must not have other responsibilities except as listed below or any ancillary responsibility;

- (a) manage, lead and control the compliance functions of the professional clearing member;
- (b) develop, implement and monitor compliance policies, processes and procedures to cover all aspects of the professional clearing member regulatory, operational and statutory obligations, including segregation of customer assets, avoiding misuse or unauthorized use of customer assets;
- (c) monitor compliance of the professional clearing member and its customers with applicable legal and regulatory framework, policies and procedures;
- (d) monitor the redressal of disputes, complaints or grievances arising out of clearing and settlement of trades and custody of securities in a timely manner;
- (e) monitor on regular basis the adequacy and efficiency of risk management system and its adherence with the risk management policies and procedures;
- (f) maintain effective liaison with the Commission in respect above stated

matters; and

- (g) perform any other related function as may be assigned by the professional clearing member or the Commission.

(4) The chief compliance officer shall functionally report to the board of directors of the professional clearing member.

(5) In case of any non-compliance, the chief compliance officer shall take necessary action under the applicable regulatory framework and where the matter requires attention of the board of directors of the professional clearing member, the same shall be reported immediately:

Provided that where a chief compliance officer is convinced that the matter also needs immediate attention of the Commission, it may simultaneously report to the Commission stating the reasons thereof.

(6) In case no action is taken by the board of directors within a reasonable time period or the chief compliance officer is of the view that the action taken by the board of directors is insufficient, he/she shall forthwith report the matter to the Commission.

(7) The chief compliance officer shall, submit a comprehensive report on quarterly basis to the board of directors regarding matters reported during the respective quarter, corrective actions taken and their status.

(8) The board of directors of the professional clearing member shall put in place necessary mechanism to ensure that the chief compliance officer performs his/her functions in a transparent, equitable and timely manner.

**30. Submission of information and returns.** - (1) The Commission may by written notice require a professional clearing member to submit to the Commission such information or periodic returns as it may require.

(2) In addition to any periodic returns required under sub-regulation (1), the Commission may by written notice require professional clearing member, either generally or in a particular case or class of cases, to submit to the Commission such other information or exceptional returns as it may require.

-.-.-

**FORM OF APPLICATION FOR LICENCE AS A PROFESSIONAL CLEARING MEMBER**

To

The Securities and Exchange Commission of Pakistan,  
Islamabad.

Dear Sir,

1. We .... (Name of the company) .... hereby apply for licence of professional clearing member under section 68 of the Securities Act, 2015.
2. The requisite information and certified true copies of all the supporting documents are enclosed.
3. Original receipt of the bank for the applicable licensing fee is also enclosed.

Yours faithfully,

Signature of the Chief Executive

**Information and Documents to be provided along-with application for licence as a professional clearing member**

**1. General and business information:**

- 1.1. Brief history of the applicant containing at least name of the applicant, date and place of its incorporation, date of commencement of business, names and contact details of sponsors, directors and senior management officers including group structure, if any.
- 1.2. Address of the registered office of the applicant with complete contact details.
- 1.3. Existing and proposed capital structure including minimum percentage of capital to be contributed and retained by the sponsors.
- 1.4. Details of substantial shareholders of the applicant including a brief profile of their business
- 1.5. Names and profiles of sponsors, directors and senior management officers along-with a conformation with the respective fit and proper criteria provided in these regulations.
- 1.6. Details of outstanding legal proceedings, if any, initiated against the applicant, its directors or senior management officers by the Commission or any other regulatory authority.
- 1.7. Details in case the applicant, its sponsors, directors, major shareholders or senior management officers have been declared insolvent or bankrupt, or declared defaulter by any authority.
- 1.8. Details of penal actions, if any, taken against the applicant, its sponsors, directors, major shareholders or senior management officers during the last three years by the Commission or any other regulatory authority.
- 1.9. Details of civil and criminal offenses in which the applicant or any of its sponsors, directors or senior management officer has remained involved during the last three years
- 1.10. In case any associated company of the applicant is already licensed under the Securities Act, 2015, the following details shall be provided, namely: -
  - (i) name of such associated company;
  - (ii) details of disciplinary proceedings initiated against such associated company by the Commission or any other regulatory authority during last three years;
  - (iii) details of legal proceedings, if any, initiated against such associated company by the Commission or any other regulatory authority during last three years; and
  - (iv) details of penal action, if any, taken against such associated company by the Commission or any other regulatory authority during the last three years.

## **2. Details of existing and proposed infrastructural facilities**

### **2.1. Detail of IT infrastructure including**

- (i) Computer systems and hardware(s).
- (ii) Software(s) to be used for providing professional clearing services.
- (iii) Disaster recovery and business continuity setup.

### **2.2. Detail of physical infrastructure to demonstrate that it has/will have**

- (i) Adequate office space;
- (ii) Necessary human resources;

## **3. Other information**

### **3.1. Details of the affiliation and outsourcing contracts, if any**

### **3.2. Names of bankers of the applicant**

### **3.3. Name of statutory auditors of the applicant**

### **3.4. Names of legal advisors/consultants of the applicant**

### **3.5. Any other information considered relevant to the business of the professional clearing member**

### **3.6. Any significant awards or recognition, collective grievances against the applicant.**

### **3.7. Any other information as may be required by the Commission.**

## **4. List of documents to be provided along with application:**

### **4.1. Certified copies of the following documents;**

- (i) memorandum and articles of association
- (ii) certificate of incorporation
- (iii) certificate of commencement of business
- (iv) Forms 3, 27, 28 and 29

### **4.2. Audited accounts for the last three years and latest half yearly and quarterly accounts, where applicable.**

### **4.3. Proposed operational model, business feasibility and financial projections of the applicant for the next five financial years**

### **4.4. Document evidencing compliance with the applicable fit and proper criteria**

### **4.5. An undertaking from the sponsors of the applicant that**

- (i) they will not sell or transfer their shares without prior written approval of the securities exchange and the Commission;



- (ii) they will immediately inform the applicant and the Commission in case of any change in the sponsors/majority shareholders of the sponsoring company.
- 4.6. An undertaking from the applicant that
  - (i) it will immediately inform the Commission in case of any change in the sponsors/majority shareholders of the sponsoring company.
  - (ii) it will immediately inform the Commission in case of any change in status of compliance of its sponsors, directors, senior management officers are in compliance with all the requirements of the Act and these regulations
- 4.7. Pattern of shareholding, identifying separately the sponsors and shares held by the sponsors
- 4.8. Any other document that the applicant may consider useful to support its application
- 4.9. Any other document as may be required by the Commission.

**SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN**  
**LICENCE AS PROFESSIONAL CLEARING MEMBER**

No. ....

Islamabad, ...(date)....

The Securities and Exchange Commission of Pakistan having considered the application for licence by..... (Name of the company).... for professional clearing member under section 68 of the Securities Act, 2015 and being satisfied that the said company is eligible for a licence under the said category, and that it would be in public interest and in the interest of the capital market so to do, hereby grants licence, in exercise of the powers conferred by section 69 of the Securities Act, 2015 to .....(name of the company).... subject to the provisions of the Securities Act, 2015 and the rules and regulations made thereunder, as amended from time to time.

2. This licence is valid up to one year from the date of issuance.

Signature of the Officer

**FORM OF APPLICATION FOR RENEWAL OF LICENCE AS A PROFESSIONAL CLEARING  
MEMBER**

To

The Securities and Exchange Commission of Pakistan,  
Islamabad.

Dear Sir,

1. We, .....(Name of the professional clearing member).... hereby apply for the renewal of the licence of professional clearing member under section 69 of the Securities Act, 2015.

2. The existing licence is due to expire on .[date of expiry].....

3. Original receipt of the bank for the applicable the renewal fee is enclosed.

4. Certified true copies of all the supporting documents are enclosed.

5. It is requested that the licence be renewed for a period of one year.

Yours faithfully,  
Signature of the Chief Executive

**SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN**  
**RENEWAL OF LICENCE AS PROFESSIONAL CLEARING MEMBER**

No. ....

Islamabad, ....(date)....

The Securities and Exchange Commission of Pakistan having considered the application for renewal of licence by .....(Name of the professional clearing member).... of the professional clearing member, and being satisfied that the said professional clearing member is eligible for renewal of licence under the said category and that it would be in public interest and in the interest of the capital market so to do, hereby grants renewal of licence to .....(Name of the professional clearing member)...., in exercise of the powers conferred by section 69 of the Securities Act, 2015, for one year subject to the provisions of the Securities Act, 2015 and the rules and regulations made thereunder, as amended from time to time.

Signature of the Officer

**LICENSING AND RENEWAL FEES\***

<b>Description of fee</b>	<b>Amount of fee in PKR</b>
Fee to be paid at the time of applying for licence	Rs.500,000
Fee to be paid at the time of applying for renewal of licence	Rs100,000

\* The above fees shall be deposited into the designated bank account of the Commission, along-with applicable collection charges.

**FIT AND PROPER CRITERIA**

**FIT AND PROPER CRITERIA FOR APPLICANT, SPONSORS, DIRECTORS AND SENIOR  
MANAGEMENT OFFICERS OF PROFESSIONAL CLEARING MEMBERS**

This Fit and Proper Criteria is perpetual in nature and its compliance is mandatory.

All persons subject to Fit and Proper Criteria must submit any change in the submitted information, including financial soundness to the company secretary of the professional clearing member within three business days and the professional clearing member shall within a period of seven business days report the same to the securities exchange and the Commission.

In addition to the applicant and the sponsors of the applicant, eligibility of any person desiring to act as a director on the board of directors or senior management officer of a professional clearing member shall be judged on the basis of following criteria, which in the case of directors, shall be in addition to meeting requirements of the Companies Ordinance, 1984 relating to eligibility of a director:

**(a) Financial Soundness and Integrity**

(i) The person should not have been adjudged as an insolvent or he should not have suspended payment of debts or compounded liabilities with its/his creditors.

(ii) The person should not have been convicted by a court of competent jurisdiction as a defaulter in payment of any loan to a financial institution including banking company, a Development Financial Institution or a Non- Banking Financial Company.

(iii) The person and companies, firms, sole proprietorship etc. where the person is a chief executive, director (other than nominee director), owner or partner etc., has/have no overdue payment to any customer, financial institution, securities exchange, futures exchange, clearing house, central depository and / or defaulted in payment of any taxes in the individual capacity or as a proprietary concern or any partnership firm or as director in any private unlisted and listed company.

Explanation: In case of overdue payment to any financial institution, CIB reports from the State Bank of Pakistan shall be examined and if there is any overdue/past due payment to a financial institution, irrespective of amount, in overdue column of latest CIB report of the person and of the companies, firms, sole proprietorship etc. where such person is a chief executive, director (other than nominee director), owner or partner etc., such person shall not be considered fit and proper person except:

- (a) in case where such overdue amount is under litigation and the same is also appearing as amount under litigation in CIB report; or
- (b) No overdue payment is appearing in the overdue column in the subsequent latest CIB report.

In case of overdue amount in CIB report, no rejection shall be made unless the person has

been provided an opportunity of making a representation before the Commission.

(iv) The person should not have been a director and/or chief executive of any company or body corporate which has defaulted in payment of Government duties/taxes/cess or has misused customer securities.

(v) The person should be a tax payer and his name should be borne on the Active Tax Payers List regularly published by Federal Board of Revenue.

Provided that this requirement shall not be applicable in the case of foreign nationals.

#### **(b) Educational or other Qualification or Experience**

(i) In case of directors, at least one director should have:

- a) membership of a recognized body of professional accountants; or a CFA degree; or a graduate degree in finance, accountancy, business management, commerce, economics, law, capital market, financial services or related disciplines from a university recognized by the Higher Education Commission of Pakistan, or equivalent; and
- b) have an experience of at least five years in activities relating to capital market, specifically professional clearing member business.

(ii) In case of chief executive officer, the person should:

- a) be a member of a recognized body of professional accountants or possess a post-graduate degree in finance, accountancy, business management, commerce, economics, law, capital market, financial services or related disciplines from a university recognized by the Higher Education Commission of Pakistan, or equivalent; and
- b) have a minimum experience of seven years in a senior management position, preferably in the regulated financial services sector.

(iii) In case of compliance officer, the person shall

- a) be a member of a recognized body of professional accountants, or possess a graduate degree in finance, accountancy, business management, commerce, economics, capital market, financial services or related disciplines from a university recognized by the Higher Education Commission of Pakistan, or equivalent; and
- b) have a minimum experience of three years in audit, finance or compliance functions or any other managerial position in a company in the financial sector.

Provided that for all of the above persons, where a person possesses seven years of relevant experience of the capital markets, the minimum qualification requirement shall be relaxed.

(iv) The directors and senior management officers must be fully conversant with the duties of director or senior management officer, as the case may be, as specified under the statutes, rules and regulations, memorandum and articles of association and the Corporate Governance Code.

### **(c) Competency**

(i) Membership or licence of the person or any company in which the person was a director during the last three years has not been suspended/cancelled by the Commission, any other regulatory authority, any professional body, association or relevant entity e.g. the securities or futures exchange, central depository or clearing house.

Provided that eligibility of a person may be considered on the basis of prior clearance obtained from any such organization that suspended/ cancelled the membership or licence.

(ii) No proceedings are pending with respect to the applicant's winding up, insolvency or analogous relief.

(iii) The person should not have been disqualified/ removed from the post of a key executive position of a company by the Commission or any other regulatory authority.

### **(d) Integrity, Honesty and Reputation**

(i) The person should not have been convicted in any criminal offence or directly involved in any settlement in civil/ criminal proceedings in a court of law, particularly with regard to moral turpitude, investments, financial/business misconduct, fraud/ forgery, breach of trust, financial crime etc. and/ or it has not been concluded by any regulatory authority that the person has been associated with any unauthorized financial activity including illegal brokerage business.

(ii) The person is not a party in litigation against the Commission in respect of any criminal offence or a matter relating to non-payment of customer claims or in any other manner prejudicial to the interest of customers and general public.

(iii) No investigation/enquiry/inspection, conducted under Section 139 of the Securities Act, 2015, Section 29 of the Securities and Exchange Commission of Pakistan Act, 1997, Section 21 of the Securities and Exchange Ordinance, 1969, Section 263 or Section 265 of the Companies Ordinance, 1984, has been concluded against the person by the Commission with material adverse findings.

(iv) The person has not defaulted on settlement of a customer complaint where such complaint has been adjudicated by the Commission or the securities exchange.

(v) An order restraining, prohibiting or debarring the person from dealing in securities in the capital market or from accessing the capital market has not been passed; or penalty of Rs.500,000/- or more has not been imposed on it/him/her by the Commission in the last three years, in respect of any laws administered by the Commission.

Provided that a person may be considered eligible in case a period of at least three years from the date of expiry of the period specified in the order for which such person has been restrained/prohibited/debarred has elapsed.

(vi) The person should not have provided false or misleading information either to the Commission or to any of the regulatory body, securities exchange, central depository or a clearing house.

(vii) The person should not have been actively involved in the management of a company whose registration or licence has been revoked or cancelled or which has gone into liquidation



or other similar proceedings due to financial irregularities or malpractices.

(viii) The person must not be ineligible, under the Companies Ordinance, 1984 or any other legislation from acting as a director.

(ix) The person should not have entered into a plea bargain arrangement with the National Accountability Bureau.

**(e) Additional Criteria for Independent Directors**

(i) The person has no relationship with the professional clearing member that would interfere with him exercising independent professional judgment as a director and he can be reasonably perceived as being able to exercise independent business judgment without being subservient to any apparent form of interference.

(ii) The person should not be a director, officer, sponsor or shareholder of a company holding TRE certificate or any holding or subsidiary company of such company.

(iii) The person's immediate family member is also not a director, officer, sponsor or shareholder of a company holding TRE certificate and/or the combined shareholding of the immediate family members in any company licensed as a professional clearing member does not exceed twenty percent.

(iv) It shall be mandatory to disclose any shareholding in a listed company in such person's name or in the name of his/her immediate family member or in the name of an entity being managed or controlled by him/her or his/her immediate family member to the professional clearing member and the securities exchange;

- a. at the time of submission of initial information; and
- b. on quarterly basis for the respective period.

(v) The person shall not simultaneously be serving as a director on the board of more than seven listed companies.

**Note:**

- In case of any ambiguity in determination of fitness and propriety of a person in terms of this criteria, the decision of the Commission shall be final and binding upon the professional clearing member.
- Along-with the application for licence for a professional clearing member:
  - a) the applicant's individual sponsors, directors and senior management officers shall submit the following duly filled form of information and the affidavit; and
  - b) the authorized person on behalf of the applicant and authorized person on behalf of the sponsors where the sponsor is a company, shall submit the following duly filled affidavit.

**Information to be provided by individual sponsors, directors and senior management officers of the \_\_\_\_ (name of professional clearing member) \_\_\_\_**

1.	Curriculum Vitae/Resume containing:		
(a)	Name:		
(b)	Father's or Husband Name:		
(c)	C.N.I.C # (attach copy)		
(d)	Latest photograph		
(e)	Nationality:		
(f)	Age:		
(g)	Contact details:		
	i) Residential address:		
	ii) Business address:		
	iii) Tel:		
	iv) Mobile:		
	v) Fax:		
	vi) E-mail:		
(h)	National Tax Number:		
(i)	Present occupation:		
(j)	Qualification(s):		
	i) Academic:		
	ii) Professional:		
(k)	Experience: (Positions held during the last 10 years along with name and address of company/ institution) Information to be provided on the following sample format*:		
	Sr#	Name of Organization	Designation
	1	Company A	DD/MM/YY - DD/MM/YY
	2	Company B	DD/MM/YY - DD/MM/YY

2.	1. Nature of directorship:			
	a) Executive    b) Non-executive			
	2. Status of directorship:			
	a) Nominee director    b) Elected director c) Independent director			
	Number of shares subscribed or held _____			
	Nominated by (name of shareholder/ nominating entity)			
3.	Names of companies, firms and other organizations of which the person is presently a director, partner, office holder or major shareholder (Information to be provided on the following sample format*)			
	Sr. #	Name of Organization	Designation	Period
	1	Company A		DD/MM/YY - DD/MM/YY
	2	Company B		DD/MM/YY - DD/MM/YY
4.	Names of any persons on the board of the (name of professional clearing member) who are related to the applicant.			

Signature \_\_\_\_\_

\*use additional sheets if required

**Affidavit to be provided by the applicant, sponsors, directors and senior management officers of the applicant**

(On Stamp Paper of Appropriate Value)

**AFFIDAVIT**

**A. In case of an individual in his/her own capacity:**

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

1. That I am eligible for .....the position of director/senior management officer....(OR) being sponsor..... of the (name of applicant)..... according to the Fit and Proper Criteria specified as per the Professional clearing members (Licensing and Operations) Regulations, 2016.
2. That I and the companies, firms, sole proprietorship etc. where I am a chief executive, director (other than nominee director), owner or partner etc. have no overdue payment to any financial institution.
3. That I hereby confirm that the statements made and the information given by me are correct and that there are no facts which have been concealed.
4. That I have no objection if the ..(name of applicant)...., securities exchange or the SECP requests or obtains information about me from any third party.
5. That I undertake to bring to the attention of the ... (name of applicant).... any matter which may potentially affect my status as sponsor/director/senior management officer as per the fit and proper criteria specified in the Professional clearing members (Licensing and Operations) Regulations, 2016.
6. That all the documents provided to ....(name of applicant)...., are true copies of the originals and I have compared the copies with their respective originals and certify them to be true copies thereof.
7. That I will comply with any other condition as may be specified by the Commission.

**B. In case of an individual as authorized person on behalf of sponsors:**

I, \_\_\_\_\_ son/daughter/wife of \_\_\_\_\_ adult, resident of \_\_\_\_\_ and holding CNIC/ Passport No. \_\_\_\_\_, on behalf of ....(name of institution)..... being sponsor of the ...( name of applicant)..... do hereby state on solemn affirmation as under:-

1. That ....(name of the institution)..... is eligible for being sponsor of the ....(name of

applicant)..... according to the Fit and Proper Criteria specified as per the Professional clearing members (Licensing and Operations) Regulations, 2016.

2. That .....(name of the institution)....., and the companies, firms, sole proprietorship etc. associated with .....(name of the institution)....., have no overdue payment to any financial institution.

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

4. That .....(name of the institution)..... has no objection if the ..(name of applicant)...., securities exchange or the SECP requests or obtains information about .....(name of the institution)..... from any third party.

5. That I undertake, on; behalf of .....(name of the institution)..... that .....(name of the institution)..... will bring to the attention of the ... (name of applicant).... any matter which may potentially affect its status as sponsor of the ... (name of applicant).... as per the fit and proper criteria specified in the Professional clearing members (Licensing and Operations) Regulations, 2016.

6. That all the documents provided to ....(name of applicant).... are true copies of the originals and I have compared the copies with their respective originals and certify them to be true copies thereof.

**C. In case of an individual as authorized person on behalf of applicant:**

I, \_\_\_\_\_ son/daughter/wife of \_\_\_\_\_ adult, resident of \_\_\_\_\_ and holding CNIC/ Passport No. \_\_\_\_\_, on behalf of ....(name of the applicant)..... do hereby state on solemn affirmation as under:-

1. That ....(name of the applicant)..... is eligible for applying for licence as a professional clearing member as per the Professional clearing members (Licensing and Operations) Regulations, 2016.

2. That .....(name of the applicant)....., and the companies, firms, sole proprietorship etc. associated with .....(name of the applicant)....., have no overdue payment to any financial institution.

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

4. That .....(name of the applicant)..... has no objection if the securities exchange or the SECP requests or obtains information about .....(name of the applicant)..... from any third party.

5. That I undertake, on behalf of .....(name of the applicant)..... that .....(name of the applicant)..... will bring to the attention of the securities exchange any matter which may potentially affect its status as a professional clearing member as per the licencing conditions and fit and proper criteria specified in the Professional clearing members (Licensing and Operations) Regulations, 2016.

6. That all the documents provided by ....(name of applicant).... are true copies of the originals

and I have compared the copies with their respective originals and certify them to be true copies thereof.

7. That the applicant will comply with any other condition as may be specified by the Commission.

\_\_\_\_\_  
DEPONENT

The Deponent is identified by me

Signature\_\_\_\_\_


ADVOCATE  
(Name and Seal)

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

Signature\_\_\_\_\_

OATH COMMISSIONER FOR TAKING AFFIDAVIT

\_\_\_\_\_  
No.SY/SECP/8/13

  
(Bilal Rasul)  
Secretary to the Commission