

GOVERNMENT OF PAKISTAN
SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

NOTIFICATION

Islamabad, the 6th April, 2016

S.R.O. 3/6 (I)/2016.— In exercise of powers conferred by sub-section (1) of section 169 read with of sub-section (2) of section 148 of the Securities Act, 2015 (III of 2015) the Securities and Exchange Commission of Pakistan hereby makes the following Regulations, the same being previously published in Official Gazette vide S.R.O. 33(I)/2016 dated January 19, 2016 and also placed on its website as required under sub-section (4) of section 169 of said Act, namely:

CHAPTER I
PRELIMINARY

1. **Short title and commencement.**— (1) These Regulations shall be called the Licensed Persons (Obligation under Voluntary Winding-up) Regulations, 2016.

(2) They shall come into force at once.

(3) These regulations shall prescribe how a licenced person will satisfy the Commission about settlement of investor claims before filing winding up petition under Companies Ordinance, 1984.

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) "claim" means the claim against a licensed person and include cash claims of a customer against a securities broker who has defaulted in respect of any dealing of securities in accordance with the provisions of the Act and rules or regulations made thereunder; and

(c) "Ordinance" means Companies Ordinance, 1984 (XLVII of 1984).

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

CHAPTER II

APPLICATION FOR APPROVAL TO FILE VOLUNTARY WINDING UP PETITION

3. Application for approval of the Commission,- (1) Notwithstanding anything contained in the Ordinance, no Court may entertain an application for winding up filed by a licensed person unless such application is accompanied by a certificate in writing from the Commission certifying that it has no objection to the making of such application.

(2) A licensed person may apply to the Commission in Form-"A" for its prior approval to a file a petition for its winding-up in terms of clause (a) of sub-section (2) of section 148 of the Act.

(3) If such licensed person is a TRE certificate holder of a securities exchange(s), the application under sub-regulation (2) above, shall be accompanied by the following information and documents:

- (a) Certified copy of resolution passed by the board of directors of the licensed person for filing the winding-up petition;
- (b) An affidavit on non-judicial stamp paper from the chief executive officer of the licensed person that no default proceedings are pending against the licensed person and that there are no outstanding customer claims and complaints;
- (c) A clearance certificate from the securities exchange confirming that no customer claims and complaints are pending against the licensed person;
- (d) A clearance certificate from the clearing house confirming that as a clearing member, the licensed person has fully discharged its obligations; and
- (e) A clearance certificate from the central depository confirming that as its participant, the licensed person has fully discharged its obligations.

(4) In case such licensed person is not a TRE certificate holder of a securities exchange(s), the application under sub-regulation (2) above, shall be accompanied by the following information and documents:

- (a) Certified copy of resolution passed by the board of directors of the licensed person for filing the winding-up petition; and
- (b) An affidavit on non-judicial stamp paper from the chief executive officer of the licensed person that no claims and complaints of customers are pending against the licensed person.

4. **Grant of approval by the Commission.** (1) The Commission, while considering the application under regulation 3, shall *inter-alia* take into account the following matters, -

- (a) that the information and document as mentioned in sub-regulation (2) or sub-regulation (4) of regulation 3, as the case may be, have been provided;
- (b) status of compliance of the licensed person under the Act and any rules and regulations made thereunder or any directions, codes or guidelines issued under the Act;
- (c) that all the claims and complaints of customers against the licensed person have been resolved and/or settled.

Explanation: The term "settled" shall mean and include that the customers of a licensed person has either willingly withdrawn their claims and complaints in writing or due payment of claims have been made to them or securities have been delivered to them, which may be ascertainable from the books and records of such licensed person or any other record maintained by the securities exchange, clearing house, central depository or the Commission.

- (d) The licensed person has provided complete records of dealing with customers to such customers, the securities exchange or to the Commission
- (e) In case of a TRE certificate holder,
 - (i) the licensed person has facilitated the transfer of all funds and securities pertaining to its customers as per wishes of such customers or as per

direction issued by the securities exchange or the Commission; and

(ii) that no claims and complaints of customers remain unsettled or unresolved at time of seeking permission for filing its winding up petition;

(f) Any other matter relating to protection of interest of the customers and/or general public.

(2) In order to satisfy itself, the Commission may inspect the books and records of the licensed person and may also verify genuineness of claims and complaints of customers and their settlement in any of the following manners;

(a) by ordering to conduct an independent enquiry / investigation by the officers of the Commission or any person or entity authorized by the Commission in this regard; or

(b) by appointing an independent firm of chartered accountants, the cost of which shall be borne by the licensed person; or

(c) by any other manner considered appropriate by the Commission.

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

(a) the licensed person is in compliance with the provisions of the Act and these regulations; and

(b) it is in the interest of customers and general public ;

may grant approval to the application made under regulation (3) subject to any additional condition imposed by the Commission.

CHAPTER III

GENERAL

5. Obligations of licenced persons,- (1) A licensed person shall ensure that it has invited and settled all claims of customers before filing a petition for winding-up.

(2) A TRE certificate holder shall immediately notify the Commission, securities exchange, central depository company and the clearing house when it passes a resolution for winding up, it

(3) the securities exchange shall, on receipt of the resolution or as soon as it becomes aware of passing the resolution for winding up of a TRE certificate holder, suspend the trading facilities of such TRE certificate holder with immediate effect.

(4) the central depository shall, on receipt of the resolution or as soon as it becomes aware of passing the resolution for winding up of a TRE certificate holder, immediately freeze all sub-accounts under the control of such TRE certificate holder as a participant and its House account . Movement of securities from the sub-account and House account shall only be allowed to facilitate the movement of securities by the customers and satisfaction of customer claims as per the default regulations of the securities exchange and the central depository.

(5) Where a securities exchange, clearing house or depository company becomes aware of facts which lead them to believe that any licenced person is not discharging its obligations towards its customers in timely manner, it shall immediately notify the same to the Commission.

(6) A securities exchange while issuing a clearance certificate as required under clause (c) of sub-regulation (3) of regulation 3, shall simultaneously provide a confirmation to the Commission as per Annexure-I.

6. Invitation of claims from customers of TRE certificate holders- (1) In case of TRE certificate holder, the securities exchange, in addition to inviting claims through publication of a notice in two widely circulated newspapers, shall invite claims from and/or inform all customers of a TRE certificate holder in a manner as may be specified in the default regulations of securities exchange.

(2) In case of default of TRE certificate holder who is participant of a central depository, the central depository, in addition to regular circulation of notices, shall also send notices to all sub-account holders of such TRE certificate holder for transferring out of securities so that such accounts can be closed.

Application for Seeking Approval under Regulation 3

Securities and Exchange Commission of Pakistan

Islamabad

Subject: Application for seeking approval under regulation 3 for filing petition for winding up

Dear Sir,

We/I on behalf of (name and address of applicant) hereby apply for seeking approval under regulation 3 of the Licensed Persons (Obligation under Voluntary Winding-up) Regulations, 2016. for filing petition for winding up of (name of applicant). The board of directors of (name of applicant) in its meeting held on (date of meeting) has already accorded its approval to file petition for winding up.

We/I, on behalf of the applicant, hereby confirm that we/I have already invited investor claims by approaching all customers and that there remain no outstanding investor claim against the applicant .

We/I, on behalf of the applicant, hereby undertake to comply with the requirements of the laws and such other conditions as may be communicated while granting approval this application.

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

Yours sincerely,

Authorised signatory

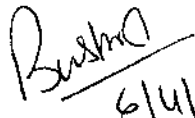
Annexure-I**Confirmation by securities exchange for satisfaction of investor claims of TRE
certificate holder seeking permission for winding up**

S. No.	Particulars
1	Name of the TRE certificate holder
2	Current Status of TRE certificate holder ✓ Active ✓ In- Active ✓ Declared Defaulter/Expelled ✓ TRE certificate forfeited ✓ Any other
3	Dates of invitation of Investor Claims (From---- To---)
4	Mode and Evidence of invitation of Investor Claims
5	Number of Investor Claims
6	Value of Investor Claims received (individual and collective) ✓ Value of customers Funds ✓ Value of Securities claimed by the claimants
7	Name of entity which verified the claims
8	Value of Claims Verified against each claim ✓ Value of customers funds ✓ Value of Securities claimed ✓ Difference between claim and verified claims
9	Customers details who don't claim their credits and shares ✓ Value of customers funds ✓ Value of Securities in sub-accounts
10	Satisfaction of Claims - details of each claim including; ✓ Amount paid against claim ✓ Securities transferred against claim (valued at day of transfer) ✓ Mode of satisfaction of claim ✓ % of satisfaction of claims against verified claims.
11	Any other material information

**Add additional working sheets where required. Underlying workings will also be shared with the Commission.*

Chief Regulatory Officer

Dated:


6/4/16
(Bushra Aslam)
Secretary to the Commission