PRESS RELEASE

For immediate release

October 14, 2015

SECP's new companies law in the offing

ISLAMABAD, October 14: The Securities and Exchange Commission of Pakistan (SECP) is about to introduce the new companies law incorporating significant changes in the existing law to make it relevant to current economic environment.

The in-house committee, constituted by the SECP Chairman Zafar Hijazi in April 2015 to review and revamp the existing company law has completed its critical review of the substantial part of the existing law and is expected to complete the task by the end of current month.

The SECP will present the draft of the new law for public consultation. For this, a series of roundtables have been tentatively scheduled for November 2015 in Karachi, Lahore and Islamabad. Wherein, Chartered Accountants, representatives of professional bodies, Bar Councils, trade and manufacturing associations, chamber of commerce and industries, financial institutions and other stakeholders from the corporate sector will be invited to deliberate on the draft of new companies act.

The significant changes in the new law includes; (i) introducing maximum use of technology by the companies and the stake holders in all the areas particularly the service of notices to the members and reporting compliance of the statutory requirements of the Commission and the Registrar of Companies, attending the meeting through video link and voting through electronic means; (ii) allowing appointment of additional directors during mid-term of the directors' term; conversion of directors' loan into equity; the conversion of other loans and the redeemable securities into shares; E-filing through authorized agents to facilitate the corporates not having the IT infrastructure; (iii) protecting the interest of shareholders in the matters relating to allotment of shares by prescribing the time frame for acceptance of offer, putting responsibility on the company to ensure delivery of circular to the entitled members, file a certificate from a Chartered Accountant with the return of allotment confirming the receipt of money and issuance of certificates and fair distribution of the value of property while allotting shares other than cash. (iv) changing the jurisdiction to rectify the register of members from Court to the Commission; (v) introducing the role of licensed corporate intermediaries with the mandate to approve the transfer of shares and furnish a certificate to be submitted to the Registrar. (vi) providing for only one form instead of various forms at the time of incorporation; centralized incorporation under the signatures or seal of the Registrar so as to reduce the processing time and ensure uniformity; (vii) providing procedure for conversion of company limited by shares into limited by guarantee and vice versa and unlimited company into limited company and vice versa; (viii) abolishing the requirement of filing certified copies of the order by the company with the Registrar; (ix) introducing softer regime for Single Member Companies specially removing the requirement of holding the AGM; (x) strengthening regulatory frame work so that the business being conducted by foreign companies through electronic means in Pakistan is brought within the domain of SECP, (xi) empowering the Commission to revoke the licence of NGOs and to monitor their activities properly; (xii) empowering the Commission to approve the amalgamation of companies as well as the compromises, arrangements and reconstruction etc. and (xiii) enabling the Commission to apply to the Court seeking disqualification of the Chief Executive or director of a company from holding such office for a period of five to fifteen years depending on the nature of offence.

Background: The Companies Ordinance, 1984 was promulgated to "consolidate and amend the law relating to companies and certain other associations for the purpose of healthy growth of the corporate enterprises, protection of investors, creditors and promotion of investment in the country".

The Pakistani economy, particularly the corporate sector, has considerably evolved and expanded. Till the year 2005 i.e., after twenty one years since the Ordinance was promulgated, two significant developments i.e., the growth of non-banking finance companies and the introduction of single member companies took place. In order to encourage their growth and also to meet with the regulatory requirements, the Ordinance was amended during the years 1991, 1999 and 2002. However, such amendments were introduced in piecemeal and narrowly focused, often resulting in a disconnect or overlap in the statutory provisions.

It was, therefore, necessary to carry out a holistic examination of the Ordinance in order to assess: (a) the relevance of its objectives in the current economic environment; (b) the adequacy of its provisions, not only for the achievement of its objectives, but for the creation and maintenance of a liberal, deregulated and efficient corporate sector; (c) its capacity to allow for the balanced growth of corporate enterprises, particularly small and medium enterprises; and (d) the extent of its harmonization with international best practices.

To undertake this essential exercise, the Securities and Exchange Commission of Pakistan ("the SECP") constituted a Corporate Law Review Commission ("the CLRC") in November 2005 under the able leadership and guidance of Chief Justice of Pakistan (Retd.) Mr. Ajmal Mian and comprising, inter-alia, eminent members of the legal, business and accountancy community, to examine, assess and ultimately suggest amendments in the Ordinance or to draft a new law for the regulation of the corporate sector.

Various concepts were deliberated by the CLRC from time to time and drafts were circulated amongst its members to reach a consensus on the final shape of the law. However, due to multiple reasons, the new draft law could not be given a final shape.

After assuming the office of Chairman, SECP in December 2014, Mr. M. Zafar-ul-Haq Hijazi, while considering the importance of the company law, revived the process for early completion of the draft law.