



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN (Islamic Finance Department)

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PRESS RELEASE

Breakthrough in Pakistan's Islamic financing system; SECP enforces Shariah Governance Regulations, 2018

ISLAMABAD, November 2: In line with the spirit of the article 38 (f) of the Constitution of Pakistan, the SECP has enforced the Shariah Governance Regulations 2018.

The jurisdiction of these regulations is the corporate sector, Shariah-compliant corporate sector, Islamic capital markets, Shariah-compliant securities, Islamic financial institutions, explicit the notification issued on November 2, 2018. The enforcement of a comprehensive framework for Shariah-compliant business is a major breakthrough to lay the foundation for a true Islamic financial and economic system.

The regulations are in furtherance to the Senate's resolution No. 393 moved by Senator Shibli Faraz and unanimously passed on July 9, 2018, whereby the house recommended that the government should take necessary steps to abolish riba at the earliest and at least 30% of the new government debts should be replaced with Shariah-compliant modes of financing. The issuance of these regulations is a leap forward towards development of a long-term, sustainable Islamic financial market, corporate sector and capital market. The regulations will help deepen Shariah-compliant businesses and financing and will set the momentum for an all-embracing use of Shariah-compliant securities for Shariah-compliant investments and financings as the regulations provide opportunity to every business irrespective of its size or line of business to become Shariah-compliant or to issue Shariah-compliant security listed or unlisted.

Pakistan has a chequered history when it comes to propagating the name of Shariah. Our history is awash with financial swindles where the wrongdoers, in the garb of Islam and Shariah, have deprived innocent investors of their hard-earned lifelong savings. Among the few reasons for the abysmal growth of Islamic finance in the country are the hiccups that investors have endured while investing in the name of Islam, resulting in a trust deficit and lack of confidence. Unfortunately, feeble efforts have been devoted to long-term oversight, and risk mitigation marked by meaningless quick fixes.

The unregulated Shariah business activity, arbitrary interpretation of Shariah, and discretionary labelling of businesses as Shariah-compliant, all pose enormous Shariah, reputational and regulatory risks. The absence of an all-encompassing framework undermined the Shariah compliance and credibility of the entities under the SECP's jurisdiction.

In this backdrop, these regulations have been introduced, which encompass a number of elements of Shariah governance necessary to execute Shariah compliance and to uphold the sanctity of Shariah in business and financial dealings and operational practices that will ensure long-term sustainability for the Islamic financial system to stay on sound footings. They include certification for Shariah compliant companies and Shariah compliant securities, a comprehensive Shariah screening methodology for listed as well as for unlisted companies, internal and external Shariah audit, Shariah advisory, Shariah compliance, income purification and charity distribution mechanism.

The regulations will help achieve standardization, harmonization, and transparency in the business practices and operational aspects of Shariah-compliant businesses and Islamic financial institutions, implement uniform Shariah screening mechanism, and shall enforce a compliance driven governance. At the same time, the regulations will make the collection and analysis of data on corporate sector's conformity with Shariah possible. They will enable the SECP to gauge the incidence of Shariah compliance and assess the Shariah compliant businesses' universe in the corporate sector and capital markets of Pakistan.

The regulations will help curb the use of word Shariah or Islam by the businesses that entice investors for ulterior motives. Henceforth, no business will claim as Shariah compliant or as an Islamic financial institution unless it obtains certification for Shariah compliance from the SECP. Likewise, certification will also be required for issuing a Shariah compliant security. The regulations are critical for addressing the challenges such as restoring the shaken confidence of public and investors, and putting in place a viable long-term solution to avert a muddle in the guise of Shariah for the future.

The concepts of Shariah-compliant company and Shariah-compliant security were introduced through landmark provisions incorporated in the Companies Act, 2017. Section 451 of the Companies Act empowering the SECP to implement the scheme of certification of Shariah-compliant companies and Shariah-compliant securities. The aforesaid regulatory provision enables the SECP to regulate almost every aspect of Shariah-compliant products, services and Shariah-compliant businesses. In order to put a robust and holistic Shariah governance framework for effective regulation and supervision of Shariah-compliant business activities in place, the SECP's Islamic Finance Department (IFD) reviewed frameworks of several international jurisdictions, including Malaysia, Indonesia, U.A.E., Bahrain, and Iran. The IFD was fully conscious of the national context and laid great emphasis on domestic business needs while framing the regulations.

In March 2018, these regulations were issued for public consultation. The IFD held a number of consultation sessions with the business community, Pakistan Business Council, Shariah advisors, Islamic financial institutions, State Bank, Pakistan Stock Exchange, Institute of Chartered Accountants of Pakistan, Takaful Operators, Modaraba and NBFIs Association, and Mutual Funds Association of Pakistan. In line with the feedback, necessary amendments were made to the regulations.

The regulations, first of their kind across jurisdictions where Islamic finance is practiced, are plural in their approach, structured to facilitate the smooth transformation for businesses allowing reasonable time to make adjustments, and are long-term in vision underpinning growth of Islamic finance. The regulations depict serious efforts from the regulator to provide an enabling regulatory environment to support and strengthen the Islamic financial system.