

Proposed amendments in Companies Act 2017¹

S. #	Original Text	Proposed Amendments	Rationale / Views
01	No existing provision. New provision proposed to be added as Section 60A.	<p>60A. Prohibition on issuance of bearer shares or bearer share warrants, etc. - (1) Notwithstanding anything contained in any other law for the time being in force, any allotment, issue, sale, transfer, assignment or other disposition of any bearer shares or bearer share warrants or any other equity or debt security of a bearer nature, by whatever named called, shall be void.</p> <p>Provided that the Commission may specify the manner in which any equity or debt security of a bearer nature, if issued, before the date this provision comes into force, may be registered or cancelled.</p> <p>Explanation:- For the purpose of this section, the term bearer shares or bearer share warrants means a negotiable instrument that accords ownership in a company to the person who possess such instrument and includes any other equity or debt security of a bearer nature.</p>	<p>The provisions relating to</p> <p>(i) the prohibition on issuance of bearer shares, bearer share warrants and similar equity or debt securities of bearer nature; and</p> <p>(ii) the manner of registration and cancellation in case any such bearer securities such as units issued by AMCs</p> <p>are being introduced in order to prevent the misuse of companies from money laundering or terrorist financing abuses in line with the recommendations² issued by the</p>

¹ <https://www.secp.gov.pk/document/companies-act-2017/?wpdmdl=28472>

² <http://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatf-recommendations.html>

		<p>(2) No civil proceedings may be brought or maintained in any court for or in respect of any bearer share or share warrant allotted, issued, sold, transferred, assigned or disposed by a company registered under the Act.</p> <p>(3) In case of any violation of the provisions of sub-section (1), the company and every director and officer of the company shall be liable to a penalty of level 3 on the standard scale.”</p>	<p>Financial Action Task Force. Recommendation no. 24 (Transparency and Beneficial Ownership of Legal Persons) is the relevant standard for the purpose.</p> <p>Pakistan’s Mutual Evaluation Report issued in October 2019 by the Asia Pacific Group on Money Laundering also highlighted certain deficiencies in the regulatory framework relating to the misuse of bearer shares and bearer share warrants, etc. Although bearer securities do not exist, an explicit prohibition is being provided through the proposed amendment.</p> <p>Bearer securities are vulnerable to misuse because they can</p>
--	--	---	--

			<p>effectively obscure the ownership of a corporate entity, thereby providing maximum anonymity and making such corporate vehicles more susceptible to misuse for illicit purposes, including money laundering.</p> <p>The proposed amendment would entail corresponding amendments to the Companies (General Provisions & Forms) Regulations, 2018, which can be accessed at the SECP's website³.</p>
02	No existing provision. New provision proposed to be added as Section 123A.	123A. Register of Ultimate Beneficial Owners.- (1) A company shall ascertain and obtain information of its ultimate beneficial owners by issuing a notice to every member, not being a natural person, in such form and manner, within such period as may be specified, and by taking such steps as may be necessary to identify an individual who is the ultimate beneficial owner of the company.	Introduction of the proposed regulatory framework for obtaining, maintaining and updating information about the ultimate beneficial owners, and providing the same to the Commission, is aimed to ensure

³ <https://www.secp.gov.pk/laws/draft-for-discussion/draft-rules-regulations/>

		<p>Explanation:- For the purpose of this section, the term “ultimate beneficial owner” means a natural person who ultimately own or control a company and includes the person who exercise ultimate effective control through a chain of ownership or by means of control other than direct control of such percentage of shares, voting rights or controlling interest in that company, as may be notified.</p> <p>(2) In reply to the notice issued by the company under sub-section (1), every member shall submit a declaration to the company in such form and manner and within such time period as may be specified.</p> <p>(3) Where any change occurs in the beneficial ownership or controlling interest of a company, the member of the company referred to in sub-section (1) shall submit a declaration to the company in such form and manner and within such period as may be specified.</p> <p>(4) If any person without any reasonable cause fails to comply with the requirements of this section or regulations, the registrar or the Commission may make an order directing the company or any of its officer or persons to make good the default or undo the irregularity or otherwise make amends, as the</p>	<p>compliance with the recommendations issued by the Financial Action Task Force to enhance transparency of companies. Recommendation no. 24 (Transparency and Beneficial Ownership of Legal Persons) is the relevant standard for the purpose.</p> <p>Pakistan’s Mutual Evaluation Report issued in October 2019 by the Asia Pacific Group on Money Laundering also highlighted certain deficiencies in the regulatory framework relating to the lack of obligation on the part of companies to provide beneficial ownership information beyond their original subscribers, shareholders and directors.</p>
--	--	---	--

		<p>circumstances may require, within such time as may be specified in the order:</p> <p>Provided that where such person fails to make good the default within the specified time period, he shall without prejudice to any other liabilities be liable to a penalty of level 3 on the standard scale.</p> <p>(5) Every company shall submit to the registrar a return in such form and manner and within such period as may be specified.</p> <p>(6) For the purpose of this section, each company shall authorize its chief executive officer or one of its directors or officers to provide the information required under this section to the Commission or any other authority or agency pursuant to the powers to call for information entrusted by law to such authority or agency, and provide further assistance as may be required and the name and particulars of such officer shall be furnished to the Commission in such form and manner as may be specified.</p> <p>(7) The Commission may by notification in the official Gazette exempt such companies or classes of companies from the requirements of this section.</p>	<p>An ultimate beneficial owner exercises ownership or control rights over a company indirectly through multiple layers of corporate entities or other legal persons or arrangements.</p> <p>A threshold of a minimum of twenty five percent of ownership or control rights of the ultimate beneficial owner in the reporting company through the multiple layers of intermediate holding companies has been proposed to be specified through the relevant regulations.</p> <p>The proposed amendment would entail corresponding amendments to the following regulations:</p> <p>(i) Companies (Incorporation) Regulations, 2017;</p>
--	--	---	---

			<p>(ii) Companies (General Provisions & Forms) Regulations, 2018; and</p> <p>(iii) Foreign Companies Regulations, 2018</p>
3.	<p>413. Disposal of books and papers of company.—</p> <p>(1)...</p> <p>(2) After the expiry of three years from the dissolution of the company no responsibility shall rest on the company, or the liquidators, or any person to whom the custody of the books and papers has been committed, by reason of any book or paper not being forthcoming to any person claiming to be interested therein.</p>	<p>413. Disposal of books and papers of company.—</p> <p>(1)...</p> <p>(2) After the expiry of three years from the dissolution of the company <u>such period from the dissolution of the company as may be specified through regulations,</u> no responsibility shall rest on the company, or the liquidators, or any person to whom the custody of the books and papers has been committed, by reason of any book or paper not being forthcoming to any person claiming to be interested therein.</p> <p>(3) The concerned Minister in Charge of the Federal Government, <u>Commission</u> may by notification <u>regulations,</u> prevent for such period (not exceeding three years from the dissolution of the company as the concerned Minister in Charge</p>	<p>The Interpretive Note to FATF Recommendation 24 (Transparency and Beneficial Ownership of Legal Persons) specifies that for at least five years after the date on which the company is dissolved or otherwise ceases to exist, the company itself or its administrators, liquidators or other persons involved in the dissolution of the company, should maintain the information and records relating to its basic and available beneficial ownership information.</p>

<p>(3) The concerned Minister-in-Charge of the Federal Government, may by notification, prevent for such period (not exceeding three years from the dissolution of the company as the concerned Minister-in-Charge of the Federal Government thinks proper, the destruction of the books and papers of a company which has been wound up, and enable any creditor or contributory of the company to make representations to the concerned Minister-in-Charge of the Federal Government.</p>	<p>of the Federal Government Commission thinks proper, the destruction of the books and papers of a company which has been wound up., and enable any creditor or contributory of the company to make representations to the concerned Minister in-Charge of the Federal Government.</p>	<p>Therefore, the existing sub-section (3) is being converted into an enabling provision to specify the period through regulations. Consequent changes are being made in sub-sections (2) and (3).</p> <p>The proposed amendment would entail corresponding amendment to the Companies (General Provisions & Forms) Regulations, 2018.</p>
---	--	--