

GOVERNMENT OF PAKISTAN
SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

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Islamabad, the 26th April, 2018

NOTIFICATION

S.R.O. 556 (I) 2018.- In exercise of powers conferred by sub-section (1) of section 512 read with section 166 of the Companies Act 2017 (XIX of 2017), and having been previously published in the official Gazette vide Notification No. S.R.O. 359 (I) 2018 dated March 15, 2018, the Securities and Exchange Commission is pleased to notify the following Regulations, namely:-

The Companies (Manner and Selection of Independent Directors) Regulations, 2018

1. Short Title and Commencement.- (1) These regulations shall be called the Companies (Manner and Selection of Independent Directors) Regulations, 2018.

(2) They shall come into force from period starting after June 30, 2018.

(3) These Regulations shall apply to any institute, body or association, notified by the Commission for maintaining and creating databank of independent directors, and the companies or entities that are required to select independent directors under any law, rules, regulations or code, unless any other mechanism is provided their respective law for the time being in force.

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

(a) "Act" means Companies Act, 2017 (XIX of 2017);

(b) "Commission" shall have the same meaning as assigned to it in clause (16) of sub-section (1) of section 2, of the Act; and

(c) "databank" means the databank maintained by such institute, body or association as may be notified by the Commission for the purposes of section 166 of the Act;

(d) "Institute" means any institute, body or association, notified by the Commission to create and maintain the databank.

(2) Words and expressions used but not defined in these regulations shall have the same meaning as assigned to them in the Act and the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997).

3. Databank of independent directors. - (1) Subject to requirements of section 166 of the Act, any institute, body or association as may be notified by the Commission, shall create and maintain the databank.

(2) The databank referred to in sub-regulation (1), shall, at the minimum, maintain the following details about persons therein:-

- a) name as per CNIC or passport;
- b) CNIC Number or Passport Number;
- c) National Tax Number (NTN);
- d) gender;
- e) occupation;
- f) contact number and email address;
- g) current service designation;
- h) educational and professional qualifications;
- i) experience or expertise or specialized skill;
- j) region/city in which the professional is serving currently;
- k) list of companies in which directorship is / was held;
- l) nature of directorship held (executive, non-executive, independent) along with duration, separately for each company/(s); and
- m) details of directors' training program (DTP) attended or exemption from DTP availed.

(3) The Institute shall place the databank on its website and ensure that basic particulars of persons in databank, as mentioned in sub-regulation (2), are assessable, searchable, legible and downloadable in the format that is convenient for online viewing and printing.

(4) The Institute shall provide access to the databank to companies for appointment of independent directors.

(5) The Institute may, with the prior approval of the Commission, fix reasonable fee, to be charged from companies for allowing them access to the information in databank.

4. Eligibility criteria for persons.- (1) Any person desirous of including his/her name on the databank referred to in regulation 3, shall fulfill the following educational and other requirements, namely:-

(a) a person who:

- i) either holds at least a graduate degree from a university recognized and approved by the Higher Education Commission of Pakistan or is a member of a professional body; and

Explanation: the expression, "professional body" means:

- a) established in Pakistan, governed under a special enactment of the Federal Government as a self-regulatory organization managed by a

representative National Council, and has a prescribed minimum criterion of examination and entitlement of membership of such body; or

b) established outside Pakistan and established under a special enactment in the country of its origin and which is a member of the International body relevant for such field.

ii) has at least five years of relevant experience in one or more of the fields of finance, law, management, sales, marketing, administration, research, corporate governance, technical operations or other disciplines relevant to the company's business; or

(b) has at least fifteen years of relevant work experience in one or more of the fields of finance, law, management, sales, marketing, administration, research, corporate governance, technical operations or other disciplines relevant to the company's business;

(c) the person is willing to act as an independent director and can confirm that on appointment, would devote reasonable time to the affairs of the company in order to enable him/her to discharge his/her stewardship responsibilities as given under the applicable law, corporate governance directives and where applicable, licensing requirements.

(2) Every independent director, after being appointed/ elected on board, shall complete Directors' Training Program (DTP) or avail exemption from the Commission as per the requirements of Regulation 20 of the Listed Companies (Code of Corporate Governance) Regulations, 2017 within twelve months of such appointment/election.

(3) The Institute shall place the information on process of registration in databank, eligibility criteria, fees and documents and other relevant details on its website and the institute must ensure that information shall be in the format easily accessible and downloadable by the applicants.

(4) The Institute may determine the necessary measures, conditions and procedure for including and retaining details of individuals in the databank.

(5) The Institute, with the prior approval of the Commission, may fix a fee to be paid by the individuals for inclusion and retaining their names in the databank.

(6) Every person whose name is included in the databank shall be responsible for the accuracy, adequacy and completeness of the information and particulars provided by him / her to the Institute and in case of any subsequent change therein.

(7) Every company shall be responsible for exercising its own due diligence before selecting an individual from the databank for appointment as independent director. In particular, every company shall require such individual to submit an undertaking on a non-judicial stamp paper that he/she meets the requirements of sub-regulation (1) of this regulation alongwith relevant supporting information supporting the same.

(8) The Institute shall conspicuously display the following disclaimers on its website:

"It is responsibility of every person appointing independent director, to exercise due diligence in terms of requirements of the Act or applicable laws for purpose of selecting a person from the data bank;

Inclusion in databank does not guarantee selection as an independent director; Institute shall neither guarantee nor make any representation regarding the accuracy and or reliability of the information about any person whose name has been included in the databank; and

Institute shall not be responsible for any contravention of any law committed by any company or its directors by the reason of the fact that the person appointed by the company as an independent director was selected from the databank nor it will be a defense in any court of law."

5. Procedure and manner for including names of persons on databank.- (1) Subject to the requirements of section 166 and regulation 4, any eligible person desirous of including his/ her name on the databank shall apply to the institute along with all the relevant information.

(2) For purpose of inclusion in databank, every directors' training institute/organization duly approved by Commission shall provide following details to the institute regarding all individuals who have completed DTP upto the date of notification of these regulations and subsequently within 15 days of any individual completing the DTP:


- a) Name of Director
- b) CNIC/Passport No. (if available)
- c) Year of completion of DTP
- d) Email address (if available)

(3) The Institute, if satisfied that all the requirements of the Act and these regulations are fulfilled, shall enter or provide manner of inclusion of relevant details of individuals in databank.

(4) The databank of independent directors shall not include name of any person who has:

- i. been ineligible, under any applicable law or debarred by the Commission, from acting as a director of a company;
- ii. been convicted by a court of any offence involving moral turpitude or fraud;
- iii. been convicted in the mismanagement of investments in any capacity;
- iv. been involved in the management of a company whose registration or license has been revoked or cancelled or which has gone into liquidation or other similar proceedings due to mismanagement of affairs, financial misconduct or malpractices;
- v. entered into a plea bargain arrangement with the National Accountability Bureau (NAB).

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(Bilal Rasul)

Secretary to the Commission