

Government of Pakistan
Securities and Exchange Commission of Pakistan

NOTIFICATION

Islamabad, the 9th August, 2016

S. R. O. 733 (I)/2016. - In exercise of powers conferred by sub-section (1) of section 169 read with sections 22, 23, 24, 35, 36, 37 and 151 of the Securities Act, 2015, the Securities and Exchange Commission of Pakistan hereby makes the following Regulations, the same have been previously published in the official Gazette vide S.R.O. 338(I)/2016 dated 15th April 2016 and also placed on its website as required under sub-section (4) of section 169 of the said Act, namely:-

CHAPTER I
PRELIMINARY

1. Short title and commencement,- (1) These Regulations shall be called the Clearing Houses (Licensing and Operations) Regulations, 2016.

(2) They shall come into force at once.

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) "fund" means settlement guarantee fund established by the clearing house under section 26 of the Act;

(c) "senior management officer" for the purposes of these regulations, in addition to the persons mentioned in clause (lviii) of section (2) of the Act include the following, by whatever name called:

- (i) company secretary;
- (ii) chief financial officer;
- (iii) head of internal audit;
- (iv) head of information technology (IT);
- (v) head of IT security; and
- (vi) chief risk officer;

(d) "trust" means the trust constituted by the trust deed under the Trust Act, 1882 (II of 1882); and

(e) "Ordinance" means the Companies Ordinance, 1984 (XLVII of 1984).

(2) 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 Central Depositories Act, 1997 (XIX of 1997) or any rules or regulations made thereunder.

CHAPTER II LICENSING OF CLEARING HOUSE

3. Application for grant of license.

(1) Subject to compliance with the requirements of sections 22 and 23 of the Act and these regulations, an application for grant of license as a clearing house shall be submitted to the Commission in **Form A**.

(2) An applicant seeking a license as clearing house shall pay an amount of rupees one million as license fee and submit the following documents along-with its application:

- (i) copy of challan evidencing payment of license fee;
- (ii) copies of memorandum of association and articles of association;
- (iii) proposed regulations under section 26 of the Act; and
- (iv) copies of agreements entered into by the applicant with securities exchange(s) and central depository(ies) for performing functions allowed under the Act and these regulations.

(3) The Commission, while considering the application for license, may require the applicant to furnish such further information or clarification as it may deem appropriate.

(4) The applicant shall, if so required, appear before the Commission for a representation through a person duly authorized for this purpose in writing by the board of directors of the applicant.

(5) Any subsequent change in the information provided to the Commission at the time of filing of application under sub-regulation (2) and (3) above or any new agreement entered into by the clearing house in respect of matter(s) referred in clause (iv) of sub-regulation (2) shall immediately be intimated to the Commission but not later than five working days from the date of such change or agreement, as the case may be.

(6) No application for grant of license made under sub-regulation (1) above shall be refused except after giving the applicant an opportunity of being heard.

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

- (a) the eligibility requirements of the Act and these regulations have been complied

with;

- (b) the applicant has demonstrated its ability to perform its duties in accordance with the provisions of the Act and any rules and regulations made or codes, guidelines, directions and circulars issued thereunder;
- (c) the applicant has shareholding and governance structure as provided in these regulations; and
- (d) the applicant has the necessary infrastructure including but not limited to adequate office space, equipment, experienced human resources and technical capabilities, financial resources, policies, procedures, systems and controls to effectively and efficiently discharge its responsibilities as a clearing house.

(2) The Commission may inspect the premises of the applicant to determine whether it fulfills the eligibility criteria and may also require the applicant to submit reports from experts at the expense of the applicant in the manner specified by the Commission to confirm compliance with the Act and these regulations including the existence of adequate infrastructure, technical capacity, financial standing and other requisite benchmarks.

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

- (a) that the applicant is eligible for a licence;
- (b) the applicant is in compliance with the provisions of the Act and these regulations;
- (c) its memorandum of association specifically allows it to act as a clearing house; and
- (d) it is in the public and capital market interest;

may grant a license to the applicant in **Form-B** under the sub-section (4) of section 24 of the Act subject to the conditions as provided in regulation 5.

(4) A clearing house shall pay an annual renewal fee of rupees one million.

5. Conditions of licensing,- A clearing house shall, in addition to the requirements of the Act, comply with the following conditions on ongoing basis or within such period(s) as the Commission may direct while granting license under these regulations:-

- (a) ensure availability and maintenance of necessary infrastructure for timely clearing and settlement of trades and risk management;
- (b) ensure establishment, maintenance and operations of settlement guarantee fund in accordance with the provisions of the Act and any rules and regulations made thereunder, for guaranteeing to its clearing members the performance of market contracts;

- (c) put in place robust risk management system, efficient settlement procedures and necessary capabilities to have a network of clearing members;
- (d) obtain a central counter party (CCP) rating as and when required by the Commission from a rating agency as may be specified for the purpose;
- (e) put in place adequate monitoring, inspection and enforcement mechanism for clearing members;
- (f) establish and maintain connectivity with the central depository(ies), clearing banks, securities exchanges and clearing members and enter into service level agreements with the securities exchanges and the central depository(ies);
- (g) have documented business continuity plan including a disaster recovery site;
- (h) continuously improve the quality and efficiency of its systems and procedures, including the attainment of relevant internationally recognized certifications;
- (i) put in place necessary controls and safeguards to ensure cyber security, access to confidential information and alteration, destruction, disclosure or dissemination of records and data;
- (j) put in place necessary arrangements for resolving disputes and redressal of grievances arising out of clearing and settlement of trades;
- (k) comply with the code of corporate governance for listed companies to the extent consistent with the provisions of the Act or these regulations;
- (l) ensure that its memorandum and articles of association contain no provision inconsistent with the provisions of the Act and these regulations and that no change is made in its memorandum and articles of association except with the prior written approval of the Commission;
- (m) ensure that its directors shall not register or allow the transfer of any of its shares without prior written approval of the Commission;
- (n) shall facilitate access to its clearing functions by securities exchange, central depository or other clearing house;
- (o) shall not carry on any activity other than that of a clearing house unless the activity is incidental to the functions of the clearing house;

Provided that a clearing house may carry-out such activity which is not incidental to functions of a clearing house, as may be allowed by the Commission and subject to such conditions as may be imposed;

Provided further that, subject to the approval of the Commission, a clearing house may carry-out such activity which is not incidental to functions of a clearing house, by forming subsidiary(ies). A clearing house registered with the Commission on the date of commencement of these regulations shall be required to transfer any such activity which is not incidental to its functions as a clearing house to its subsidiary company(ies) within one year from the date of grant of license under these regulations;

- (p) prescribe a code of conduct for all its employees and ensure compliance with the

same; and

(q) any other conditions as may be specified by the Commission.

6. Financial resource requirements,-(1) An applicant seeking license under regulation 4 shall have an initial paid-up capital and net-worth of not less than rupees one billion.

Provided that the Commission may require the clearing house to maintain a higher paid-up capital and net-worth in a progressive manner:

Provided further that an existing clearing house shall, within a period of three months, or such extended period as may be allowed by the Commission, from the date of commencement of these regulations, submit a report by an independent expert appointed by the clearing house with approval of the Commission to evaluate current and projected risks associated with clearing house operations and recommend optimal levels of capital for the clearing house. The Commission will determine paid-up capital and net-worth requirements for the clearing house to be complied with in a progressive manner after review of the report of the expert.

Explanation: For the purpose of these regulations, net worth shall be calculated as total assets less total liabilities less surplus on revaluation, if any, created upon revaluation of fixed assets.

CHAPTER III OBLIGATIONS OF CLEARING HOUSE

7. Application of fit and proper criteria,- The applicant and its promoters, substantial shareholders, directors and senior management officers shall be fit and proper persons as per the criteria specified as Annexure-I:

Provided that while evaluating fit and proper criteria in respect of promoters and substantial shareholders of the clearing house, the fit and proper criteria shall also be applied to the extent practical on the majority shareholders and directors of such promoters and substantial shareholders .

8. Shareholding requirements,- (1) No person other than the following shall, directly or indirectly, acquire or hold shares of a clearing house:

- (a) a securities exchange or a connected company or the majority shareholder of such securities exchange, or an associate of the majority shareholder of such securities exchange;
- (b) a futures exchange or any connected company or the majority shareholder of such futures exchange or an associate of the majority shareholder of such futures exchange; or
- (c) any of the following institution subject to compliance with the conditions provided

under sub-regulation (2) below:

- (i) a financial institution operating as a development finance institution, an insurance company or a non-banking finance company ;
- (ii) a licensed local or a foreign bank operating in Pakistan;
- (iii) a local or foreign body corporate constituted or recognized for providing trading, custodial, clearing or settlement services in the securities market as may approved by the Commission;
- (iv) an institution engaged in providing financial services established outside Pakistan as may approved by the Commission; or
- (v) any other institution as may be notified by the Commission from time to time.

(2) Shareholding in a clearing house by institutions referred at clause (c) of sub-regulation (1) shall be subject to the following conditions:

- (a) the institution or any of its sponsors or directors are not associated person(s) of a TRE certificate holder or any of its sponsors or directors;
- (b) it complies with the capital requirements specified under the relevant provisions of applicable laws;
- (c) it has a minimum long-term credit rating as may be determined by the Commission from time to time;
- (d) it shall give an undertaking that it shall meet any capital calls made by the clearing house in accordance with the requirements of the Act and the regulations made thereunder in proportion to its shareholding;
- (e) its license for providing any financial services has not been suspended or cancelled by any regulatory authority during the last five years;
- (f) no investigation or enquiry conducted under the relevant laws has been concluded against it by the Commission, State Bank of Pakistan, National Accountability Bureau, Federal Investigation Agency or any other regulatory or government body, with any adverse findings;
- (g) an order restraining, prohibiting or debaring it from providing any financial services has not been passed by any regulatory authority, government body or agency or a court of law; and
- (h) it has not been declared defaulter in payment of taxes.

(3) Shareholding in a clearing house shall be subject to the following limits;

- (a) collective shareholding of all shareholders other than those mentioned at clause (a) and (b) of sub-regulation (1) above shall not exceed forty nine percent;
- (b) collective shareholding of persons residing outside Pakistan, directly or indirectly, shall not exceed twenty percent;
- (c) a single shareholder, other than a securities exchange or a futures exchange, directly or indirectly, shall not hold more than fifteen percent shares in a clearing house:

(4) Any person holding shares in an existing clearing house on the date of commencement of these regulations shall comply with requirements of sub-regulation (2) and (3) above within a time period of three years from the date of commencement of these regulations.

9. Composition of board of directors and related matters.- (1) The board of directors of a clearing house shall have following categories of directors:

- (a) Independent directors;
- (b) Shareholder directors; and
- (c) Chief executive officer.

Explanation:- For the purpose of this clause the term "independent director" means a director who is not connected or does not have any other relationship, whether pecuniary or otherwise, with the clearing house, its associated companies, subsidiaries, holding company or directors. The test of independence principally emanates from the fact whether such person can be reasonably perceived as being able to exercise independent business judgment without being subservient to any form of conflict of interest:

Provided that without prejudice to the generality of this explanation, no director shall be considered independent if one or more of the following circumstances exist:

- (a) he/she has been an employee of the clearing house, any of its subsidiaries or holding company within the last three years;
- (b) he/she is or has been the chief executive officer of subsidiaries, associated company, associated undertaking or holding company of the clearing house in the last three years;
- (c) he/she has, or has had within the last three years, a material business relationship with the clearing house either directly, or indirectly as a partner, substantial shareholder or director of a body that has such a relationship with the clearing house;
- (d) he/she has received remuneration in the three years preceding his/her appointment as a director or receives additional remuneration, excluding retirement benefits from the applicant apart from a director's fee or has participated in the clearing house's share option or a performance-related pay scheme;
- (e) he/she is a close relative of the clearing house's promoters, directors or substantial shareholders:

Explanation: close relative means spouse(s), lineal ascendants and descendants and siblings;

- (f) he/she holds cross-directorships or has significant links with other directors through involvement in other companies or bodies; or
- (g) he/she has served on the board for more than three consecutive terms from the date of his first appointment provided that such person shall be deemed "independent

director" after a lapse of one term.

Provided that any person nominated as a director under sections 182 and 183 of the Ordinance shall not be taken to be an "independent director" for the above-mentioned purposes.

Provided further that in case of any ambiguity in determining independence of a person for the purposes of these regulations, the decision of the Commission shall be final and binding upon the clearing house.

(2) The clearing house shall not have more than one director associated with a TRE certificate holder on its board of directors and shall have independent directors not less than one third of its total directors.

(3) An independent director shall be appointed by the board of directors of the clearing house with prior written approval of the Commission in the following manner:

(a) a clearing house shall maintain a panel of fit and proper persons suitable for appointment as independent directors;

(b) a minimum of two names from the panel maintained under clause (a) above shall be submitted by the clearing house to the Commission for each vacancy, for its approval. The clearing house shall ensure that such persons are selected from diverse but relevant fields of work with appropriate qualification and experience;

(c) the Commission may, if satisfied that a person is suitable for appointment as independent director grant its approval for the appointment of the selected person by the board of directors of clearing house.

Provided that where the Commission is not satisfied about the suitability of the proposed persons for appointment as a director, it may refer the matter back to the clearing house for proposing other names after following the due process.

(d) unless provided otherwise, the term of the independent directors so appointed shall be the same as that of the shareholder directors;

(e) an independent director may be removed by the board of directors of the clearing house with prior written approval of the Commission if such persons fail to meet fit and proper criteria:

(f) any vacant position of an independent director shall be filled in the similar manner as provided for initial appointment of an independent director.

(4) At least one independent director shall be present in the meeting of board of directors of the clearing house to constitute the quorum.

(5) The chairman of the board of directors of a clearing house shall be from amongst the independent directors.

(6) Every director and senior management officer of a clearing house shall abide by the

code of conduct to be formulated by the clearing house in accordance with the guidelines specified at **Annexure-II**.

(7) An existing clearing house shall ensure compliance with the provisions of this regulation within six months from the commencement of these regulations.

10. Appointment of chief executive officer,- (1) The appointment, renewal of appointment and termination of services of the chief executive officer shall be made with the prior approval of the Commission and for this purpose the term "removal and/or termination" shall include non-renewal of his/ her contract.

(2) The board of directors of a clearing house shall determine the manner of appointment, terms and conditions of appointment and other procedural formalities associated with the selection/ appointment of the chief executive officer.

(3) A chief executive officer shall be appointed by the clearing house through following process:

(a) a clearing house shall forward to the Commission names of three suitable persons meeting fit and proper criteria provided in these regulations for selection and approval for appointment of one of them as chief executive officer. The clearing house may recommend name of one of the candidates for consideration of the Commission.

(b) the Commission may, if satisfied that the person is suitable for appointment by the clearing house as chief executive officer of the clearing house, grant its approval for appointment of a person from the three candidates as chief executive officer of the clearing house.

Provided that, if the Commission is not satisfied with the suitability of the proposed persons for appointment as chief executive officer, it may refer the matter back to the clearing house for proposing other names after following the due process.

(4) The appointment of the chief executive officer shall be made for a period of three years subject to renewal with the prior approval of the Commission.

11. Appointment and functions of chief regulatory officer, - (1) A clearing house shall appoint a chief regulatory officer with prior written approval of the Commission.

(2) A chief regulatory officer shall be appointed by the clearing house through the following process:

(a) A clearing house shall forward to the Commission names of three suitable persons meeting fit and proper criteria provided in these regulations for selection and approval of one of them as chief regulatory officer. The clearing house may recommend name of one of the candidates for consideration of the Commission.

- (b) The Commission may, if satisfied that the person is suitable for appointment by the clearing house as chief regulatory officer of the clearing house, grant its approval for the appointment of a person from the three candidates as chief regulatory officer of the clearing house.

Provided that, if the Commission is not satisfied with the suitability of the proposed persons as chief regulatory officer, it may refer the matter back to the clearing house for proposing other names after following the due process.

- (3) The chief regulatory officer shall be a dedicated position and must not have other responsibilities except as listed below or any ancillary responsibility;

- (a) manage, lead and control the compliance and regulatory functions of the clearing house;
- (b) develop, implement and monitor compliance policies, processes and procedures to cover all aspects of the clearing house regulatory, operational and statutory obligations;
- (c) handle matters relating to the regulations of the clearing house, including regular review of the same to ensure their suitability and finalizing proposals for amendments in the regulations for the approval of board of directors of the clearing house;
- (d) monitor compliance of the clearing house and clearing members with applicable legal and regulatory framework, policies and procedures and take enforcement actions under the applicable regulatory framework;
- (e) supervise or conduct any investigation, inspection or enquiry required to be conducted by a clearing house;
- (f) monitor the redressal of disputes, complaints or grievances arising out of clearing and settlement of trades in a timely manner;
- (g) monitor appropriate utilization of settlement guarantee fund in accordance with the applicable legal framework;
- (h) monitor on regular basis the adequacy and efficiency of risk management system and its adherence with the risk management policies and procedures
- (i) maintain effective liaison with the Commission in respect above stated matters; and
- (j) perform any other related function as may be assigned by the clearing house or the Commission.

- (4) The chief regulatory officer shall functionally report to the board of directors of the clearing house.

- (5) In case of any non-compliance, the chief regulatory officer shall take necessary action

under the applicable regulatory framework and where the matter requires attention of the board of directors of the clearing house, the same shall be reported immediately.

Provided that where a chief regulatory officer is convinced that the matter also needs immediate attention of the Commission, it may simultaneously report to the Commission stating the reasons thereof.

(6) In case no action is taken by the board of directors within a reasonable time period or the chief regulatory officer is of the view that the action taken by the board of directors is insufficient, he/she shall forthwith report the matter to the Commission.

(7) The chief regulatory officer shall, submit a comprehensive report on quarterly basis to the board of directors regarding matters reported during the respective quarter, corrective actions taken and their status.

(8) The board of directors of the clearing house shall put in place necessary mechanism to ensure that the chief regulatory officer performs his/her functions in a transparent, equitable and timely manner.

12. Constitution of risk committee - (1) A clearing house shall, with approval of its board of directors, constitute a risk committee for assisting it to develop risk management system policies and procedures.

(2) The risk committee shall comprise of independent directors, chief executive officer, chief regulatory officer, and industry experts. The chairman of risk committee shall be an independent director

(3) The board of directors of a clearing house shall determine the manner of appointment of members of risk committee including the selection criteria with the prior approval the Commission.

(4) The risk committee shall be responsible for the following;

- (a) framing of risk management policies and procedures for the clearing house operations in line with international standards and best practices;
- (b) ensuring that the risk management system has the tools to identify and manage all relevant risks including the legal, credit, liquidity, general business, and operational risks including control measures and safeguards with respect to large exposures by clearing members and matters connected thereto;
- (c) ensuring that margin requirements are commensurate with the risks of each product and portfolio, address procyclicality, avoid concentration and provide adequate coverage in conformity to international bench marks
- (d) ensuring that risk management function has the capacity to obtain timely information necessary to apply risk-management policies and procedures which allow for the accurate and timely measurement and aggregation of risk exposures
- (e) conducting or arranging to conduct studies, researches or analysis with respect

to any or all of the components of risk management system of the clearing house;

- (f) formulating policies and procedures to ensure continuous adequacy of the risk management model and its adherence to international standards including the policies for regular back testing, stress testing, reverse back testing and sensitivity analysis
- (g) formulating policies for ensuring that a full validation of risk management model is performed at least annually;
- (h) to meet at least once in each quarter to review adequacy of risk management system, policies and procedures and matter connected thereto; and
- (i) to submit its recommendation(s) to the board of directors together with explanation of their purposes and likely effect, including their effect on the clearing house, clearing members and investors in sufficient details.

13. Chief Risk Officer, - (1) The clearing house shall appoint a chief risk officer to perform the following functions:

- (a) to lead risk management department of the clearing house;
- (b) to ensure implementation of risk management policies and procedures in an effective manner;
- (c) to assist risk committee in performing its functions including submission of periodic reports and information;
- (d) to timely bring to the information of risk committee any exceptional or urgent matter concerning or affecting the risk management system; and
- (e) perform any other related function as may be assigned by the clearing house or the Commission.

(2) The appointment and termination of services of the chief risk officer shall be made by the board of directors of the clearing house in consultation with the risk committee.

(3) The chief risk officer shall have a reporting line directly to the chief executive officer of the clearing house and shall have an additional reporting line to the chairman of the risk committee.

14. Manner of outsourcing of important functions, - (1) A clearing house shall not outsource any of its functions without prior written approval of the Commission.

(2) The board of directors of a clearing house shall be responsible for formulation and approval of outsourcing policy describing activities or the nature of activities that can be outsourced, the authority for approving outsourcing of such activities, and the selection of third party to whom it can be outsourced.

(3) The records relating to all activities outsourced shall be preserved centrally by the clearing house so that the same is readily accessible for review by the board of directors, the Commission or any other authorized person.

(4) The clearing house shall be fully liable and accountable for the activities that are being outsourced to the same extent as if the service were provided in-house.

(5) The clearing house shall take appropriate steps to ensure that third parties protect confidential information of both the clearing house, its customers and other parties involved from intentional or inadvertent disclosure to unauthorized persons.

(6) The clearing house desirous of outsourcing its activities shall not, however, outsource its core business activities and compliance functions.

15. Setting up of Fund,- (1) A clearing house licensed under the Act shall establish and maintain a fund under irrevocable trust by constituting a trust deed not inconsistent with the provisions of the Act and rules or regulations made thereunder, for guaranteeing to its clearing members the performance of market contracts.

(2) The clearing house while managing the fund shall provide requisite resources for efficient management of the fund. The clearing house may recover from the fund any actual expenditure incurred by it for this purpose.

(3) The clearing house shall, inter alia, make adequate provisions in its regulation in respect of size of the fund, contribution into the fund, utilization of the fund, mode of replenishment of the fund, mode and manner of periodic review of the fund, mode and manner of appointment of trustees and their duties and obligations.

CHAPTER V AUDIT AND ACCOUNTS

16. General,- The obligations and duties of clearing house under these regulations with respect to audit and accounts are in addition to the requirements of the Ordinance, the rules and regulations made thereunder and any directives issued thereunder.

17. Maintenance of accounting records,- (1) A clearing house shall keep accounting and other records which shall sufficiently explain its business and transaction entered into and shall be such as to,—

- (a) disclose with accuracy the financial position at that time;
- (b) enable the clearing house to prepare financial statements at any time and which comply with requirements of the law;
- (c) demonstrate whether the clearing house is maintaining adequate financial resources to meet its business commitments;

(d) demonstrate capacity of the clearing house with respect to its duties, functions and operations under the Act and these regulations; and

(e) demonstrate its preparedness to manage any risk arising out of its duties, functions and operations.

(2) The clearing house shall ensure that all requirements with respect to accounting and audit under these regulations are updated in timely manner.

(3) The clearing house shall ensure that information which is required to be recorded under the Act and these regulations shall be recorded in such a way as to enable a particular transaction to be identified at any time and traced from initiation of the order to final settlement.

(4) All records required to be maintained under the Act and these regulations shall be arranged, filed, indexed and cross- referenced so as to permit prompt access to any particular record.

(5) The clearing house shall preserve the records required under these regulations for a period of ten years from the date on which they are made and should seek clearance from the Commission before destruction of any of its records.

18. Appointment of auditor and related matters,- (1) A clearing house shall ensure that it has appointed an auditor who inter-alia has the powers and duties prescribed under sub-regulation 3 and , –

(a) those powers and duties are set out in an engagement letter;

(b) the engagement letter is signed by the clearing house and the auditor; and

(c) the clearing house retains a copy of the engagement letter.

(2) A clearing house shall, within seven days, give written notice to the Commission of the appointment, removal or resignation of an auditor.

(3) The auditor appointed by a clearing house shall have a right to, –

(a) access to its accounting and other records and all other documents relating to its business including the documents required to be maintained under the Act and these regulations; and

(b) require from it such information and explanations as the auditor considers necessary for the performance of duties.

(4) In preparing an auditor report of a clearing house, the auditor shall carry out such relevant audit procedures as will enable him to form an opinion as to the matters required to be stated in the audit report.

(5) The auditor's report shall state all the matters as are required to be stated in accordance with the requirements of the Ordinance and additionally must state whether in the opinion of the auditor;

- (a) an adequate internal control system commensurate with the size and nature of services performed by the clearing house was implemented during the period; and
- (b) the regulatory function had appropriate resources including the human resource and had implemented effective procedures and reporting mechanism which can be reasonably expected to detect and report any non-compliance in a timely manner.

(6) Where an auditor resigns or is removed by the clearing house, a notice to that effect shall be sent to the Commission containing a statement signed by the auditor to the effect that there are no circumstances connected with his resignation or removal which the auditor considers should be brought to the attention of the Commission.

(7) A clearing house shall undergo a mandatory annual audit of its operations, regulatory functions and IT systems and any other systems or functions as specified by the Commission from time to time.

(8) For the purposes of the audit specified in sub-regulation (7) above, the clearing house shall, with the prior approval of the Commission, appoint an independent auditor with relevant expertise who shall conduct such audit in accordance with the terms of reference specified in **Annexure III**.

(9) The Commission may appoint an auditor to carry out a special audit of the clearing house at the expense of the clearing house, in respect of all or any specific matter as specified in **Annexure III** or any matter specified by the Commission at the time of appointment of the auditor. The audit shall be carried out for such period as Commission may direct at the time of appointing the auditor.

19. Submission of annual report,- (1) A clearing house shall submit an annual report to the Commission within four months of the close of financial year, inter alia, containing the following information in addition to the requirements of section 37 of the Act;

- (a) audited financial statements containing information as required under the Act and these regulations;
- (b) audit report in respect of audit of operations, regulatory functions and IT systems conducted under regulation 18 to demonstrate regulatory compliance of the clearing house during the financial year;
- (c) report of directors to shareholders;
- (d) statement of compliance with the code of corporate governance;
- (e) month-wise settlement volume and value in each market segment;

- (f) total number of clearing members, eligible securities and other elements along-with information with respect to addition or deletion during the period;
- (g) summary of properties deposited as market collateral by the clearing members with the clearing house;
- (h) names and brief profiles of members of board of directors and senior management officers;
- (i) action taken to combat any emergency in settlement of securities;
- (j) names of clearing member defaulted during the year along with nature and amount of default and subsequent action(s) taken by the clearing house;
- (k) details of disciplinary actions taken, fines and penalties imposed and recovered,
- (l) pattern of shareholding, and all changes in shareholding during the review period;
- (m) Opening balance, amounts contributed, amounts utilized and closing balance of each of the fund being maintained by the clearing house; and
- (n) any other information that may be deemed material by the clearing house for disclosure in the annual report.

(2) In addition to the submission of annual report to the Commission, the clearing house shall place the annual report on its official website no later than one week from the date of its publication.

20. Submission of information and returns,-(1) The clearing house, with approval of its board of directors, shall submit to the Commission, within one month of the close of its financial year, a yearly performance report of the clearing house against the approved targets and plans, highlighting in particular performance of the board of directors, chief executive officer and chief regulatory officer of the clearing house.

(2) The Commission may by written notice require a clearing house to submit to it such periodic returns as it may direct.

(3) In addition to any periodic returns required under sub-regulation (1), the Commission may by written notice require a clearing house, either generally or in a particular case or class of case, to submit to it such other information or exceptional returns as it may direct.

Application for Grant of License as a Clearing House under Regulation 4

Securities and Exchange Commission of Pakistan

Islamabad

Subject: Application for grant of license under regulation 4 of the Clearing Houses (Licensing and Operations) Regulations, 2016

Dear Sir,

We/I on behalf of (name and address of applicant) hereby apply for grant of license as clearing house for the purposes of the Securities Act, 2015 and the Clearing Houses (Licensing and Operations) Regulations, 2016.

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

We/I, on behalf of the applicant, hereby undertake to comply with the requirements of the laws and such other conditions and terms as may be communicated while granting the license or imposed subsequently.

Bank Challan No.....dated.....evidencing payment of license fee of rupees one million and collection charges into the designated bank account of the Securities and Exchange Commission of Pakistan is also enclosed

Yours sincerely,

Authorised signatory

The Securities and Exchange Commission of Pakistan

License of a Clearing House under section 24 of the Securities Act, 2015

The Securities and Exchange Commission of Pakistan, having considered the application for grant of license under regulation 4 of the Clearing Houses (Licensing and Operations) Regulations, 2016 by..... (name and address of clearing house) and being satisfied that it would be in the interest of the securities market and also in the public interest so to do, hereby grants license, in exercise of the powers conferred by section 24 of the Securities Act, 2015, to the said clearing house on the day of 20.... subject to the condition of payment of annual renewal fee of rupees one million and any other conditions as stated in the attached letter or as may be imposed hereafter.

Seal of the Commission

Signature of Officer

Islamabad

**Fit and Proper Criteria for the Applicant and its Promoters, Substantial Shareholders,
Directors and Senior Management Officers**

APPLICATION AND SCOPE

This Fit and Proper Criteria is perpetual in nature and its compliance is mandatory.

All persons subject to Fit and Proper Criteria must submit any change in the submitted information, including the financial soundness to the company secretary of the clearing house within three business days and the clearing house shall within a period of seven business days report the same to the Commission.

In addition to the applicant and its promoters and substantial shareholders, eligibility of any person desiring to act as director on the board of directors or senior management officer of a clearing house shall be judged on the basis of following criteria, which in case of directors, shall be in addition to meeting requirements of the Ordinance relating to eligibility of a director:

(a) Financial Soundness and Integrity

(i) The person should not have been adjudged as an insolvent or he should not have suspended payment of debts or compounded liabilities with its/his creditors.

(ii) The person should not have been convicted by a court of competent jurisdiction as a defaulter in payment of any loan to a financial institution including banking company, a Development Financial Institution or Non- Banking Financial Company.

(iii) The person and companies, firms, sole proprietorship etc. where the person is a chief executive officer, director (other than nominee director), owner or partner etc., have no overdue payment to any investor, financial institution, securities exchange, commodity exchange, clearing company, central depository and/or defaulted in payment of any taxes in the individual capacity or as a proprietary concern or any partnership firm or as director in any private unlisted and listed company.

Explanation: For the purposes of clause (iii) above, the clearing house shall obtain Credit Information Bureau (CIB) reports to determine any overdue/past due payment of the person to a financial institution. In case of any amount appearing in the overdue column of the latest CIB report, such person shall not be considered fit and proper person except:

- (a) where such overdue amount is under litigation and the same is also appearing as amount under litigation in CIB report; or
- (b) No overdue payment is appearing in the overdue column in the subsequent latest CIB report

In case of overdue in CIB report, no rejection shall be made unless the person has been

provided with an opportunity of making a representation before the Commission.

(iv) The person should not have been a director and/or chief executive of any company or body corporate which has defaulted in payment of Government duties/taxes/cess or has misused customer/investor assets.

(v) The person should be a tax payer and its/his name should be borne on the Active Tax Payers List regularly published by FBR. Provided that this requirement shall not be applicable in the case of non-resident foreign nationals.

(b) Educational Qualification and Experience

(i) In case of director, the person should:

- a) be a member of a recognized body of professional accountants or possess a graduate degree in finance, accountancy, law, business management, commerce, economics, capital market, information technology and financial services or related disciplines from a university recognized by the Higher Education Commission of Pakistan, or equivalent; and
- b) have a management or business experience including directorships, of at least seven years at a senior level preferably in the regulated financial services sector and other fields such as law, information technology etc.

Provided that where a person possesses more than 15 years of experience and knowledge of the capital markets, clearing houses, central depositories, commodities market, or in the areas relating to finance, corporate governance, audit, information technology etc. the minimum qualification requirement may be relaxed on case to case basis by the clearing house, with prior approval of the Commission.

(ii) In case of chief executive officer, the person should:

- a) be a member of a recognized body of professional accountants or possess a post-graduate degree in finance, accountancy, business management, commerce, economics, capital market and financial services or other related disciplines from a university recognized by the Higher Education Commission of Pakistan, or equivalent; and
- b) have a minimum experience of seven years in a senior level managerial position at the clearing house or has served at a senior management position preferably as chief executive officer for a period of five years in any other company of a substantial size in the regulated financial services sector; and
- c) have demonstrated, through his qualification and experience, the capacity to successfully undertake the cognate responsibilities of the position.

(iii) In case of chief regulatory officer, the person should:

- a) be a member of a recognized body of professional accountants or a recognized body

of corporate or chartered secretaries; or be a law graduate or possess a postgraduate degree in finance, accountancy, business management, commerce, economics, capital market and financial services or related disciplines from a university recognized by the Higher Education Commission of Pakistan, or equivalent or a Certified Internal Auditor, or a Certified Fraud Examiner; and

- b) have preferably served as chief regulatory officer for a period of three years in any other company; or have:
 - i) a minimum experience of five years in related functions at the clearing house; or
 - ii) served as head of finance, audit, compliance or other corporate functions for a period of four years in any other company.

(iv) In case of chief operating officer, the person should:

- a) be a member of a recognized body of professional accountants or possess a postgraduate degree in finance, accountancy, business management, commerce, economics, capital market and financial services or other related disciplines from a university recognized by the Higher Education Commission of Pakistan, or equivalent; and
- b) have a minimum experience of seven years in a senior level managerial position at the clearing house or has served at a senior management position preferably as chief operating officer for a period of five years, in any other company of a substantial size in the regulated financial services sector; and
- c) have demonstrated, through his qualification and experience, the capacity to successfully undertake the cognate responsibilities of the position.

(v) In case of chief financial officer, the person should:

- a) be a member of a recognized body of professional accountants or possess a postgraduate degree in finance, accountancy, business management, commerce, economics, capital market and financial services or related disciplines from a university recognized by the Higher Education Commission of Pakistan, or equivalent; and
- b) have preferably served as chief financial officer for a period of three years in any other company; or have:
 - i) a minimum experience of five years in related functions at the clearing house; or
 - ii) served as head of finance, audit, compliance or other corporate functions for a period of four years in any other company.

(vi) In case of chief risk officer, the person should:

- a) be a member of a recognized body of professional accountants, or possess a postgraduate degree in finance, accountancy, business management, commerce,

economics, capital market and financial services or related disciplines from a university recognized by the Higher Education Commission of Pakistan, or equivalent or a Certified Internal Auditor, or a Certified Fraud Examiner; and

- b) have preferably served as chief risk officer and/or head of internal audit for a period of three years in any other company; or have:
 - i) a minimum experience of five years in related functions at the clearing house; or
 - ii) served as head of finance, audit, compliance or other corporate functions for a period of four years in any other company.

(vii) In case of head of internal audit, the person should:

- a) be a member of a recognized body of professional accountants or a Certified Fraud Examiner; and
- b) have preferably served as head of internal audit for a period of three years in any other company; or have:
 - i) a minimum experience of five years in related functions at the clearing house; or
 - ii) served as head of finance, audit, compliance or other corporate functions for a period of four years in any other company

(viii) In case of company secretary the person should:

- a) be a member of a recognized body of professional accountants or a recognized body of corporate or chartered secretaries; or be a law graduate or possess a post-graduate degree in finance, accountancy, business management, commerce, economics, capital market and financial services or related disciplines from a university recognized by the Higher Education Commission of Pakistan, or equivalent; and
- b) have preferably served as company secretary and/or compliance officer for a period of three years in any other company; or have:
 - i) a minimum experience of five years in related functions at the clearing house; or
 - ii) served as head of finance, audit, compliance or other corporate functions for a period of four years in any other company.

(ix) In case of head of information technology (IT) or head of IT security, the person should:

- a) possess a post-graduate degree in information technology or computer sciences or related disciplines from a university recognized by the Higher Education Commission of Pakistan, or equivalent; and
- b) have a minimum relevant experience of five years in IT related functions at the clearing house or has served as head of IT related services for a period of three years in any other company:

Provided that the clearing house shall not appoint or retain any person as senior management officer who is above sixty years of age or who was in service of a TRE certificate holder or an associated company of such TRE certificate holder during the last three years:

Provided further that upon request of a clearing house supported by cogent reasons, the Commission may consider allowing continuation of service of an existing senior management officer who does not fulfil the requirements prescribed above, on a case to case basis.

(viii) In case of promoters and substantial shareholders of a clearing house, such person should have an established and proven track record of successfully running a business enterprise for 3 to 5 years.

(ix) The person must be fully conversant with the duties of director or senior management officer, as the case may be, as specified under the statutes, rules and regulations, memorandum and articles of association and the code of corporate governance.

(c) Competency

(i) Membership or registration of the person or any company in which he was a director during the last five years has not been suspended/ cancelled on disciplinary ground(s) by the Commission, any other regulatory authority, any professional body, association or relevant entity.

Provided that eligibility of a person may be considered on the basis of prior clearance obtained from any such organization that suspended/ cancelled the membership or registration.

(ii) No proceedings are pending with respect to the applicant's winding up, insolvency or analogous relief.

(iii) The person should not been disqualified/ removed from the post of a key executive position of a company by the Commission or any other regulatory authority.

(d) Integrity, Honesty and Reputation

(i) The person should not have been convicted in any criminal offence or directly involved in any settlement in civil/ criminal proceedings in a court of law, particularly with regard to moral turpitude, investments, financial/business misconduct, fraud/ forgery, breach of trust, financial crime etc. and/ or it has not been concluded by any regulatory authority that he has been associated with any unauthorized financial activity including illegal brokerage business.

(ii) The person is not a party in litigation against the Commission in respect of any criminal offence or a matter relating to non-payment of customer claims or in any other manner prejudicial to the interest of customers and general public.

(iii) No investigation/ enquiry, conducted under Section 139 of the Act, Section 29 of the

Securities and Exchange Commission of Pakistan Act, 1997, Section 21 of the Securities and Exchange Ordinance, 1969, Section 263 or Section 265 of the Ordinance, has been concluded against him by the Commission with material adverse findings.

(iv) The person has not defaulted on settlement of a customer complaint where such complaint has been adjudicated by the Commission or the securities exchange.

(v) An order restraining, prohibiting or debarring him from dealing in securities market or from accessing the capital market has not been passed; or penalty of rupees five hundred thousand or more has not been imposed on him by the Commission in the last three years, in respect of any laws administered by the Commission.

Provided that a person may be considered eligible in case a period of at least three years from the date of expiry of the period specified in the order for which such person has been restrained/ prohibited/ debarred has elapsed.

(vi) The person should not have provided false or misleading information either to the Commission or to any of the regulatory body, securities exchange, central depository or a clearing house.

(vii) The person should not have been actively 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 financial irregularities or malpractices;

(viii) The person must not be ineligible, under the Ordinance or any other legislation from acting as a director or senior management officer; or

(ix) The person should not have entered into a plea bargain arrangement with the National Accountability Bureau.

(x) In case of promoters and substantial shareholders, their majority shareholders, and directors have proven track record of regulatory compliance with no major disciplinary action taken and any adverse comment provided by the relevant regulatory authority.

(e) Additional Criteria for Independent Directors

(i) The person has no relationship with the clearing house that would interfere with him exercising independent professional judgment as a director and he can be reasonably perceived as being able to exercise independent business judgment without being subservient to any apparent form of interference.

(ii) The person should not be a director, officer, sponsor or shareholder of a company holding TRE certificate or any holding or subsidiary company of such company.

(iii) The person's family member is also not a director, officer or sponsor of a company holding TRE certificate and/ or the combined shareholding of the immediate family members in any brokerage house does not exceed twenty percent.

(iv) It shall be mandatory to disclose any shareholding in a listed company in such person's

name or in the name of his family member or in the name of an entity being managed or controlled by him or his family member to the clearing house and the Commission;

- a. at the time of submission of initial information; and
- b. on quarterly basis for the respective period.

Further, the clearing house shall, during the tenure of independent director, disseminate the information relating to trading of such independent director to the securities exchange for public disclosure.

(v) The person shall have no personal services contract(s) and shall not be currently serving as an employee and has not been employed at any position of the clearing house within the past two years.

(vi) The person shall not simultaneously be serving as a director on the board of more than seven listed companies.

Note:

- All directors must inform the clearing house of any change in the submitted information that may potentially affect their status of directorship, within 48 hours of knowledge of such change.
- In case of any ambiguity in determination of fitness and propriety of a person in terms of this criteria, the decision of the Commission shall be final and binding upon the clearing house.
- Along-with the application for licence as a clearing house and on subsequent appointment;
 - the applicant's directors and senior management officers shall submit the following duly filled form and affidavit; and
 - the authorized person on behalf of the applicant and authorized person on behalf of the promoters and substantial shareholders shall submit the following duly filled affidavit.

Form of information to be provided by persons desiring prospective directorship on the board or a senior management officer of the clearing house

1.	Curriculum Vitae/Resume containing:			
(a)	Name:			
(b)	Father's or Husband Name:			
(c)	C.N.I.C # (attach copy)			
(d)	Latest photograph			
(e)	Nationality:			
(f)	Age:			
(g)	Contact details:			
	i) Residential address:			
	ii) Business address:			
	iii) Tel:			
	iv) Mobile:			
	v) Fax:			
	vi) E-mail:			
(h)	National Tax Number:			
(i)	Present occupation:			
(j)	Qualification(s):			
	i) Academic:			
	ii) Professional:			
(k)	Experience: (Positions held during the last 10 years along with name and address of company/institution) Information to be provided on the following sample format*:			
	Sr#	Name of Organization	Designation	Period
	1	Company A		dd/mm/yy - dd/mm/yy
	2	Company B		dd/mm/yy - dd/mm/yy
2.	In case of proposed director,			
	1. Nature of directorship:			
	Executive Non-executive			
	2. Status of directorship:			
	Independent director Shareholder director			
	Number of shares subscribed or held _____			
	Nominated by (name of shareholder)			
3.	In case of proposed director,			
	Names of companies, firms and other organizations of which the proposed person is presently a director, partner, office holder or major shareholder (Information to be provided on the following sample format*)			
	Sr#	Name of Organization	Designation	Period
	1	Company A		dd/mm/yy - dd/mm/yy
	2	Company B		dd/mm/yy - dd/mm/yy
4.	In the case of nomination of director by a shareholder the date of board of directors' meeting in which the nomination of proposed director was approved. (Attach copy of the minutes of the meeting of the board of directors.)			
5.	Names of any persons on the board of the clearing house who are related to the applicant.			

Signature _____

*use additional sheets if required

Affidavit to be provided by the applicant, promoters, substantial shareholders, directors and senior management officers of the applicant

(On Stamp Paper of Appropriate Value)

AFFIDAVIT

(name of clearing house)

A. In case of an individual in his/her own capacity:

I, _____ son/daughter/wife of
_____ adult, resident of
_____ and holding CNIC/ Passport No.
_____ do hereby state on solemn affirmation as under:-

1. That I am eligible for the position of director/senior management officer of the ...(name of clearing house).... according to the fit and proper criteria specified for the position of directors/senior management officers of a clearing house, as per the Clearing Houses (Licensing and Operations) Regulations 2016.
2. That I and the companies, firms, sole proprietorship etc. where I am a chief executive officer, director (other than nominee director), owner or partner etc. has no overdue payment of any financial institution.
3. That I hereby confirm that the statements made and the information given by me are correct and that there are no facts which have been concealed.
4. That I have no objection if ...(name of clearing house)..... or the Commission requests or obtains information about me from any third party.
5. That I undertake to bring to the attention of the ...(name of clearing house)..... any matter which may potentially affect my status for the position of director/senior management officer as per the fit and proper criteria specified in the Clearing Houses (Licensing and Operations) Regulations 2016.
6. That all the documents provided to ...(name of clearing house)....., are true copies of the originals and I have compared the copies with their respective originals and certify them to be true copies thereof.
7. That I will comply with any other condition as may be specified by the Commission.

B. In case of an individual as authorized person on behalf of promoter and substantial shareholder:

I, _____ son/daughter/wife of _____ adult, resident of _____ and holding CNIC/ Passport No. _____, on behalf of(name of institution)..... being promoter/substantial shareholder of the ...(name of clearing house)..... do hereby state on solemn affirmation as under:-

1. That(name of the institution)..... is eligible for being promoter/substantial shareholder of the(name of clearing house)..... according to the fit and proper criteria specified as per the Clearing Houses (Licensing and Operations) Regulations, 2016.
2. That(name of the institution)....., and the companies, firms, sole proprietorship etc. associated with(name of the institution)....., have no overdue payment to any financial institution.
3. That I hereby confirm that the statements made and the information given by me are correct and that there are no facts which have been concealed.
4. That(name of the institution)..... has no objection if the ..(name of clearing house).. or the Commission requests or obtains information about(name of the institution)..... from any third party.
5. That I undertake, on behalf of(name of the institution)..... that(name of the institution)..... will bring to the attention of the ... (name of clearing house).... any matter which may potentially affect its status as promoter/substantial shareholders of the ... (name of clearing house).... as per the fit and proper criteria specified in the Clearing Houses (Licensing and Operations) Regulations, 2016.
6. That all the documents provided to(name of clearing house).... are true copies of the originals and I have compared the copies with their respective originals and certify them to be true copies thereof.

C. In case of an individual as authorized person on behalf of applicant:

I, _____ son/daughter/wife of _____ adult, resident of _____ and holding CNIC/ Passport No. _____, on behalf of(name of the applicant)..... do hereby state on solemn affirmation as under:-

1. That(name of the applicant)..... is eligible for applying for licence as a clearing house as per the Clearing Houses (Licensing and Operations) Regulations, 2016.
2. That(name of the applicant)....., and the companies, firms, sole proprietorship etc.

associated with(name of the applicant)....., have no overdue payment to any financial institution.

3. That I hereby confirm that the statements made and the information given by me are correct and that there are no facts which have been concealed.

4. That(name of the applicant)..... has no objection if the Commission requests or obtains information about(name of the applicant)..... from any third party.

5. That I undertake, on behalf of(name of the applicant)..... that(name of the applicant)..... will bring to the attention of the Commission any matter which may potentially affect its status as a clearing house as per the licencing conditions and fit and proper criteria specified in the Clearing Houses (Licensing and Operations) Regulations, 2016.

6. That all the documents provided by(name of applicant).... are true copies of the originals and I have compared the copies with their respective originals and certify them to be true copies thereof.

7. That the(name of the applicant)..... will comply with any other condition as may be specified by the Commission.

DEPONENT

The Deponent is identified by me

Signature_____

ADVOCATE

(Name and Seal)

Solemnly affirmed before me on this _____ day of _____ at _____ by the Deponent above named who is identified to me by _____, Advocate, who is known to me personally.

Signature_____

OATH COMMISSIONER FOR TAKING AFFIDAVIT

**GUIDELINES FOR FORMULATION OF CODE OF CONDUCT FOR DIRECTORS AND SENIOR
MANAGEMENT OFFICERS OF A CLEARING HOUSE**

While formulating the code of conduct as required under the code of corporate governance, the board of directors of the clearing house shall ensure that the following areas are covered and duties and responsibilities of directors and senior management officers are accordingly defined in the said code of conduct:

1. Duties and Responsibilities of Directors and Senior Management Officers:

Every director and senior management officer shall:

- a) participate in the formulation and execution of strategies in the best interest of the clearing house and contribute towards pro-active decision making;
- b) give benefit of their experience and expertise to the clearing house and provide assistance in strategic planning and execution of decisions;
- c) endeavor to ensure that the clearing house abides by all the provisions of the Act, the Ordinance, these regulations and other applicable rules, regulations, codes, guidelines, circulars and directions issued by the Commission from time to time;
- d) endeavor to ensure that the clearing house takes steps commensurate to honor the time limit stipulated by the Commission for corrective action;
- e) not support any decision in the meeting of the board which may adversely affect the interest of investors and shall report forthwith any such decision to the Commission;
- f) place priority for redressing investor grievances and encouraging fair business practice so that the clearing house becomes an engine for the growth of the securities market;
- g) endeavor to analyze and administer the clearing house issues with professional competence, fairness, impartiality, efficiency and effectiveness;
- h) submit the necessary disclosures/statement of holdings/ dealings in securities as required by the clearing house or the Commission from time to time as per their regulations or Articles of Association or any directives of the Commission;
- i) unless otherwise required by law, maintain confidentiality and shall not divulge/disclose any information obtained in the discharge of their duty and no such information shall be used for personal gains;
- j) maintain the highest standards of personal integrity, truthfulness, honesty and fortitude in discharge of their duties in order to inspire public confidence and shall not engage in acts discreditable to their responsibilities;
- k) perform their duties in an independent and objective manner and avoid activities that may impair, or may appear to impair, their independence or objectivity or official duties;
- l) not engage in any act involving moral turpitude, dishonesty, fraud, deceit, or misrepresentation or any other act prejudicial to the administration of the clearing house;
- m) not disclose confidential information, including commercial secrets, technologies,

advertising and sales promotion plans, unpublished price sensitive information, unless such disclosure is expressly approved by the board of directors or required by law;

2. Meetings of the Board

Every Director of the clearing house shall -

- a) endeavor to ensure that in case all the items of the agenda of a meeting were not covered for want of time, the next meeting is held within reasonable timeframe as the board of directors may determine for considering the remaining items; and
- b) endeavor to have the date of next meeting fixed at each board meeting in consultation with other members of the board.

3. Guidelines for conduct of independent directors

- a) In addition to the conditions stated above, independent directors shall endeavor to attend all the board meetings and they shall be liable to vacate office if they do not attend fifty percent of the total meetings of the board of directors in a calendar year.

Further, the independent directors shall:

- b) participate constructively and actively in the committees of the board in which they are chairpersons or members;
- c) strive to attend the general meetings of the clearing house;
- d) where they have concerns about the running of the clearing house or a proposed action, ensure that these are addressed by the board and, to the extent that they are not resolved, insist that their concerns are recorded in the minutes of the board meeting;
- e) keep themselves well informed about the affairs and matters of the clearing house and the external environment in which it operates;
- f) pay sufficient attention and ensure that adequate deliberations are held before approving related party transactions and assure themselves that the same are in the interest of the clearing house;
- g) ascertain and ensure that the clearing house has an adequate and functional grievance resolution mechanism and to ensure that the interests of a person who uses such mechanism are not prejudicially affected on account of such use;
- h) report concerns about unethical behavior, actual or suspected fraud or violation of the code of conduct of the clearing house; and
- i) acting within its authority, assist in protecting the legitimate interests of the clearing house, shareholders and its employees.

TERMS OF REFERENCE OF OPERATIONAL, REGULATORY AND SYSTEM AUDIT OF CLEARING HOUSE UNDER REGULATION 18(8) AND SPECIAL AUDIT UNDER REGULATION 18(9)

(1) A clearing house shall require an independent auditor to conduct operational and system audit in accordance with any or all of the following:

(i) reviewing appropriateness of controls and safeguards mentioned at regulation 5(h);
(ii) reviewing the information processing facilities of the clearing house and the integrity of its clearing house systems including:

- (a) maintenance of security and confidentiality over the data of its elements;
- (b) security over the physical operation of the clearing house systems;
- (c) backup and disaster control and recovery procedures for clearing house systems; and
- (d) access controls for clearing house systems; and

(iii) assessing the integrity and accuracy of information generated by the clearing house systems including, without limitation:

- (a) internal controls over data input by the clearing house; and
- (b) processing and reporting of transaction data.

(iv) performing any other function or conducting audit of any other area as may be assigned by the Commission or clearing house at the time of appointment of such auditor.

(2) A clearing house shall require an independent auditor to conduct regulatory audit in accordance with any or all of the following:

(i) ensure compliance with the relevant regulatory framework, including but not limited to:

- (a) Securities Act, 2015;
- (b) Central Depositories Act, 1997;
- (c) The Companies Ordinance, 1984;
- (d) Clearing house (Licensing and Operations) Regulations, 2016;
- (e) The regulations of the clearing house as approved by the Commission under the Securities Act, 2015;
- (f) The policies, procedures, directives, guidelines, circulars issued/approved by the Commission or the board of directors of a clearing house.

- (ii) ensure compliance with the Memorandum of Association and Articles of Association of the clearing house;
 - (iii) ensure existence of and compliance with Standard Operating Procedures relating to all major operational processes;
 - (iv) ensure that policies and procedures are formulated to identify and prevent conflict of interest of directors with the interest of capital market, investors and clearing house and are complied with; and
 - (v) ensure that clearing house system and related functionalities operate in compliance with the requirements of approved regulations and procedures of the clearing house.
 - (vi) evaluate any other aspect of clearing house functions that may be required by the Commission
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Bushra
9/8/16

(Bushra Aslam)
Secretary to the Commission

