

GOVERNMENT OF PAKISTAN  
SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

-.-.-

*Islamabad, the 31<sup>st</sup> July, 2019*

**NOTIFICATION**

**S.R.O. 890(I)/2019.**- In exercise of the powers conferred by section 512 read with section 457 of the Companies Act, 2017 (XIX of 2017) and the Futures Market Act, 2016 (XIV of 2016), the Securities and Exchange Commission of Pakistan is pleased to make the following regulations, the same having been previously published vide SRO 717 (1)/2019 dated July 02, 2019, namely:-

**CHAPTER I  
PRELIMINARY**

**1. Short title and commencement.**- (1) These regulations may be called the Collateral Management Companies Regulations, 2019.

(2) They shall come into force at once.

**2. Definitions.**- (1) In these Regulations, unless the context otherwise requires,-

(a) “Act” means the Companies Act, 2017 (XIX of 2017);

(b) “Annexure” means annexures appended to these regulations;

(c) “Certificate of Accreditation” means the certificate of accreditation issued to a Warehouse by a CMC under these regulations;

(d) “Collateral Management Company” or “CMC” means an Agriculture Promotion Company registered with the Commission under these regulations having principal line of business as managing Produce as collateral or engaged in any other activity connected with or related to any Produce or any other activity as may be notified by the Commission;

(e) “Commission” means the Securities and Exchange Commission of Pakistan established under the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997);

(f) “Commodity” shall have the same meaning as is assigned to it under the Futures Market Act, 2016;

(g) “Depositor of Produce” means a person who delivers Produce to the Warehouse Operator for storage or transfer of ownership;

(h) “Electronic warehouse receipt” or “EWR” means a warehouse receipt as proof of storage of the Produce of the Depositor held at the accredited Warehouse issued

by the Warehouse Operator through the electronic warehouse receipt system of the CMC;

- (i) “Electronic warehouse receipt system” means a centralized electronic system as maintained by the CMC for registration of possession and ownership of Produce stored in accredited warehouse and its transfer and matters incidental thereto;
- (j) “Eligible Pledgee” means any banking company, financial institution or any other company, corporation or institution in such class as the CMC may from time to time, determine for this purpose, apply for recognition by the CMC for the purpose of admission to the EWR system as an Eligible Pledgee in the manner and mode as may be prescribed in the Standard Operating Procedures, from time to time;
- (k) “Financial Institution” shall have the same meaning as assigned to it in clause (31) of sub-section (1) of section 2 of the Act;
- (l) “Futures Exchange” means a public company that is licensed by the Commission as a futures exchange under section 5 of the Futures Market Act, 2016;
- (m) “Produce” shall have the same meaning as assigned to it in clause (b) of sub-section 1 of section 457 of the Act;
- (n) “Physical Warehouse Receipt” means a warehouse receipt issued by a Warehouse Operator for a limited period, in exceptional circumstances to be specified by the CMC, for a maximum period of two days or such period as may be notified by the Commission, to a Depositor of Produce upon depositing Produce with the warehouse, for the purpose of acknowledging the deposit until the issuance of the electronic warehouse receipt to the Depositor of Produce;
- (o) “Schedule” means schedule appended to these Regulations;
- (p) “Standard Operating Procedures” means Procedures made by CMC under Regulation 6 with prior approval of the Commission;
- (q) “Warehouse” means any premises, accredited by the CMC, to be used for the custody of Produce deposited by a person;
- (r) "Warehousing Guidelines" means the guidelines issued by the CMC with prior approval of the Commission for compliance by accredited Warehouse Operator;
- (s) “Warehouse Operator” means any corporate entity or person including a warehouseman managing an accredited Warehouse; and
- (t) “Warehousing Standards” means such standards as may be required under the applicable law.

(2) Words and expressions used but not defined in these regulations shall, unless there is anything repugnant in the subject or context, have the same meaning as assigned to them in the Act or other administered legislation as provided in Schedule I of the SECP Act, 1997.

## CHAPTER II

### ESTABLISHMENT AND REGISTRATION OF CMC

**3. Permission to form a Collateral Management Company.-** (1) A person desirous of forming a CMC shall make an application for permission of the Commission subject to the following terms and conditions,-

- (a) the principal line of business of the applicant will be related to managing produce as collateral or engaged in any activity connected with or related to Produce or other related activities;
- (b) the applicant undertakes to invest a minimum paid-up capital of two hundred million rupees or such higher amount as may be specified by the Commission from time to time;
- (c) the applicant undertakes to secure necessary infrastructure including but not limited to adequate office space, equipment, electronic warehouse receipt system and control procedures; and
- (d) such other condition as may be notified by the Commission.

(2) The applicant shall provide the following documents or information along with the application,-

- (a) draft Memorandum and Articles of Association;
- (b) list of names of proposed sponsors, shareholders, directors and authorized signatory of the applicant and all other information as required in Annexure A;
- (c) feasibility report of the proposed company;
- (d) percentage of capital, each sponsor proposes to contribute in the proposed company; and
- (e) documentary evidence of net worth of the sponsors; and
- (f) such other information as may be required by the Commission.

(3) The Commission may permit by an order in writing to establish a CMC if it is satisfied that the person seeking permission to form a CMC has provided the information as required under sub-regulation (2).

(4) The permission granted under sub-regulation (3), shall be valid for a period of six months unless extended for a further period as approved by the Commission under special circumstances, on the application of the promoters made before the expiry of initial six months. During the validity of this permission, the promoters shall get the company incorporated as a public limited company and submit an application to the Commission for grant of registration as a CMC, after fulfilling all the conditions specified in these regulations.

**4. Application for Grant of Registration to carry out activities as a CMC.-** (1) A CMC incorporated under Regulation 3(3) shall make an application to the Commission for grant of registration for carrying out activities as a CMC along with receipt evidencing payment of non-refundable processing fee of two hundred thousand rupees.

(2) The Commission, while considering the application for grant of registration, may require the applicant to furnish such further information or clarification regarding its activities and businesses as it deems appropriate.

(3) Any subsequent change in the information provided to the Commission at the time of filing of application under regulation 3 shall be intimated to the Commission along with the application for grant of registration.

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

(5) The Commission shall, after making necessary inquiries and after obtaining such further information, as it may consider necessary, and if it is satisfied that each of its promoters, directors, chief executive and chairman of the board of directors fulfills the terms and conditions mentioned in the fit and proper criteria as provided in Schedule I, grant registration to carry out activities as a CMC.

Provided that the Commission may refuse to grant registration if in the opinion of the Commission such applicant does not fulfill the requirements specified under these regulations and where the Commission, after taking into account the facts, is of the view that it is not in the public interest to grant such registration.

**5. Scope of Activities of a Collateral Management Company.-** Subject to the requirements of section 457 of the Act, the CMC may engage in the following activities,-

(a) warehousing, i.e. provision of quality storage and preservation services for a range of agricultural commodities;

Provided that a CMC shall not own a warehouse without prior written approval of the Commission, subject to such terms and conditions as it may deem fit.

(b) issuance of warehouse receipts for agricultural commodity financing;

(c) devise a mechanism for pledging, in favor of Eligible Pledgee, the Depositor's Produce held with the Warehouse Operator against which electronic warehouse receipt has been issued;

(d) stock audit, evaluation and verification services;

(e) accreditation of warehouses; and

(f) any other activity as approved by the Commission.

**CHAPTER III**  
**DUTIES AND RESPONSIBILITIES OF CMC**

- 6. Duties of a Collateral Management Company.-** (1) Every CMC shall:
- (a) ensure that its board of directors and the chief executive are appointed with prior approval of the Commission;
  - (b) ensure that key executives fulfill the fit and proper criteria as provided in Schedule I of these regulations;
  - (c) maintain high standards of integrity and fairness in discharging its functions and its dealing with other persons with whom they have agreed in writing to render services as CMC;
  - (d) fulfill its obligations in a fair, efficient, transparent and ethical manner;
  - (e) act with due skill, care and diligence in performing all its functions and discharging all its obligations and responsibilities;
  - (f) upon obtaining registration, display the certificate of registration, in a conspicuous place, in the principal place of its business;
  - (g) have its own inspection arrangements or a list of third party examiners responsible for the inspection of the Warehouses for the purpose of accreditation or annual inspection or as may be required by any relevant statute;
  - (h) maintain records and documents, both in physical and electronic form, in respect of accredited Warehouses;
  - (i) register a warehouse operator and ensure that its key executives meet the Fit and Proper Criteria as specified in the Standard Operating Procedures;
  - (j) make an initial assessment report at the time of accrediting a Warehouse as well as annual assessment report in relation to each Warehouse accredited, and maintain a copy thereof for a minimum period of ten years;
  - (k) maintain a register of accredited Warehouses and publish the list on its website;
  - (l) submit a monthly report to the Commission with regard to issuance of Certificate of Accreditation to Warehouses and ensure that the same information is available on its website;
  - (m) allow the bank/financial institution access to verify the Produce stored in the accredited warehouse; and
  - (n) allow and assist the Commission to inspect its office(s), accounts, books, records and documents, and its accredited Warehouses at any time.

**7. Maintenance of Record by Collateral Management Company.-** (1) Every CMC shall properly maintain the following records, namely,-

- (a) list of all the applications received for accreditation;
- (b) list of all the rejected applications and reasons of rejection thereof;
- (c) list of all accredited warehouses along with criteria, procedure and basis of issuance of accreditation;
- (d) all the record relating to the depositors of Produce; and
- (e) such other record as may be required by the Commission.

(2) A CMC shall ensure that the record referred to in sub-regulation (1) is maintained and preserved in good order for a period of at least ten years.

(3) A CMC shall,-

- (a) ensure that the record is kept at such a place and maintained in such a manner that it is easily accessible;
- (b) establish a record-retention-policy which shall ensure that all relevant legal and regulatory requirements are complied with; and
- (c) take such measures as are deemed appropriate for maintaining security of the records including documents related to insurance of the premises.

**8. Manner of Outsourcing important functions.-** (1) The board of directors of CMC shall be responsible for formulation and approval of outsourcing policy describing activities or the nature of activities that can be outsourced, the authorities who can approve outsourcing of such activities, and the selection of third party to whom it can be outsourced.

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

(3) The CMC shall be fully liable and accountable for the activities that are being outsourced to the same extent as if the services were provided in-house. The facilities, premises or data involved in carrying out the outsourced activity by the service provider shall be deemed to be those of the CMC.

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

**9. Permitted disclosures.-** The CMC can disclose any information or documents—

- (a) which Depositor of Produce or any other person holding such EWR, has authorized in writing to disclose; or
- (b) in the case of any litigation or other legal proceedings; or
- (c) to any person duly authorized by a competent court or authority or the Federal Government to investigate into any offence under any law for the time being in force; or
- (d) for the purpose of enabling or assisting the Federal Government to discharge their respective functions and exercise any power conferred on them under these Rules or any other law for the time being in force; or
- (e) for the purpose of enabling or assisting auditors of the CMC to discharge their duties; or
- (f) to the Federal Government if the disclosure is required in the interest of the Depositor of Produce or any other person holding such EWR or in the public interest.

**10. Fees and charges.-** Fees and charges for the services rendered by the CMC shall be paid by the Warehouse Operator, Depositor of Produce, and the Eligible Pledges in accordance with the fees and charges prescribed by the CMC with prior approval of the Commission.

#### **CHAPTER IV ACCREDITATION OF WAREHOUSES**

**11. Accreditation of Warehouse managed by the Warehouse Operator.-** (1) A CMC may grant certificate of accreditation to a Warehouse, subject to the fulfillment of following minimum conditions,-

- (a) Warehouse shall have all necessary permissions and meet the requisite standards in accordance with applicable laws, within the jurisdiction the Warehouse is situated, for carrying out the business of warehousing;
- (b) Warehouse shall have a warehouse operator who will manage and operate the Warehouse to the satisfaction of the CMC;
- (c) Warehouse operator has submitted proof of ownership or registered-lease deed or rent agreement or such other title document as admissible under law along with disclaimer from owner of the Warehouse/property providing waiver of ownership regarding Produce stored in such Warehouse, in case of leased or rented Warehouse;
- (d) Warehouse is suitable with respect to the kind of Produce being stored;
- (e) Warehouse is equipped with all the necessary equipment and apparatus including but not limited to drying, weighing, handling, firefighting, circulation of stock,

alternative power source, and insect/pest management or any other equipment and apparatus prescribed by the CMC;

- (f) Warehouse has adequate arrangements in place for carrying out sampling, grading and testing of Produce stored therein including but not limited to third party assessment;
- (g) Warehouse operator has financial capability and adequate trained staff with expertise and knowledge for the storage of Produce in the Warehouse;
- (h) Warehouse has an efficient system for loading or unloading of Produce including proper mechanism for segregation of different kinds or quality of Produce;
- (i) Warehouse has adequate security arrangements and is located in a place which is accessible and is not excessively prone to natural disasters;
- (j) Warehouse is comprehensively insured for incidents including but not limited to natural disaster, fire, theft, flood, burglary, fidelity and misappropriation, and special perils covering riots, strikes and terrorism or any other condition as may be provided in the warehousing guidelines;
- (k) Warehouse operator shall have adequate performance guarantees or security deposit as required by the CMC;
- (l) Warehouse Operator has not been declared insolvent by the court of law and in the case of an individual has not been convicted of an offence involving moral turpitude;
- (m) Warehouse Operator has submitted an affidavit that he is responsible for ensuring maintenance of quantity, weight and quality of Produce that is stored for the Depositor;
- (n) Warehouse is electronically connected with the CMC and the Futures Exchange;
- (o) Warehouse shall have proper books of accounts and other records and documents; and
- (p) Any other condition or information as may be required by the CMC from time to time.

(2) The CMC after conducting such inquiries and after obtaining such further information as it deems appropriate and upon being satisfied that all the conditions have been met, may grant a certificate of accreditation to the Warehouse under sub-regulation 11(1) of this Regulation.

(3) No application for grant of certificate of accreditation made under sub-regulation 11(1) above shall be refused except after giving the applicant an opportunity of being heard.



(4) Upon accrediting a Warehouse, the CMC shall forthwith inform the Commission and shall share the copy of accreditation, along with location, capacity, kind of Produce the Warehouse is suitable for storing, and other relevant information.

(5) The CMC shall prepare warehousing guidelines and standard operating procedures in accordance with the applicable laws and as much as possible meet the international standards for the accreditation, management and inspection of warehouses and have the same approved by the Commission.

(6) The CMC shall appoint one or more examiners to undertake inspection of the warehouse to ensure that all the conditions for accreditation have been fulfilled including the existence of adequate infrastructure, technical capacity, financial standing and other requirements and the Warehouse Operator has met all the conditions stated in Schedule II.

Provided that the CMC shall appoint third party examiners for inspection of its own Warehouse(s).

(7) The CMC shall ensure that the examiners:

- (a) are competent to undertake evaluation for accreditation of warehouses; and
- (b) have conducted the inspection in a fair and transparent manner.

(8) The CMC shall appoint one or more persons as examiners to undertake annual inspection of an accredited warehouse after the grant of certificate of accreditation and the scope of such inspection shall include, but not be limited to, review of books of accounts, other records and documents of the warehouse and shall submit a report thereof for information of the Commission within such time as may be notified by the Commission.

**12. Cancellation of Certificate of Accreditation.-** (1) Where the CMC, upon undertaking a periodic inspection, determines that the Warehouse Operator or warehouse is not complying with the requirements of certificate of accreditation, it may cancel the accreditation and record the same in its periodic inspection report and immediately inform of its decision to cancel and the grounds thereof to the Commission, the Futures Exchange and relevant financial institution(s).

Provided that prior to cancellation of the accreditation, the CMC shall ensure that the Produce stored in the relevant warehouse is either transferred to another accredited warehouse or to the beneficiary of EWR.

(2) The CMC shall submit a copy of its inspection report as well as its decision to cancel the certificate of accreditation in respect of a Warehouse to the Commission not later than five working days from the date of such decision.

## **CHAPTER V WAREHOUSE RECEIPTS**

**13. Receipt to be issued.-** (1) Against the Produce deposited in the Warehouse by each Depositor of Produce, the Warehouse Operator shall issue an EWR, which shall contain full

particulars of the Produce, as specified under Regulation 14 along with the name of the Warehouse Operator and the expiry date of receipt.

(2) In case of issuance of Physical Warehouse Receipt, the same shall be temporary and remain valid for a period of two days or such period as may be notified by the Commission until the Warehouse Operator issues an EWR to the Depositor of Produce.

**14. Standardization and issuance of EWR:-** (1) The CMC shall be the repository of the EWR and shall control and maintain the records of such receipt.

(2) The CMC shall, with prior approval of the Commission, prescribe particulars to be contained in the EWR which shall include the following at a minimum,-

- (a) auto-generated unique receipt number by the collateral management system;
- (b) Warehouse accreditation number;
- (c) name of the Warehouse, Warehouse Operator and its complete postal address;
- (d) name and address of the person by whom or on whose behalf the Produce is deposited;
- (e) the warehouse receipt shall be transferable only through the electronic warehouse receipt system;
- (f) date of issuance of the EWR;
- (g) storage charges and handling charges;
- (h) description of the Produce or of the packages containing them with particulars of quantity and quality or grade;
- (i) market value of the Produce at the time of deposit;
- (j) declared shelf-life of the Produce as determined by the quality assaying company;
- (k) that the receipt would be valid for a maximum period of the declared shelf-life of the Produce as determined by the quality assaying company;
- (l) name of the insurance company, policy and policy number of the insurance cover for indemnifying the EWR holder for any loss that may be caused to such person by the wrongful act, negligence, natural catastrophe based on the criteria predetermined by the CMC;
- (m) statement that the Produce received shall be delivered to the holder thereof, or that the Produce shall be delivered to the order of a named person; and
- (n) any other information as may be required by the CMC.

(3) Each EWR shall be assigned a serial number, and shall maintain the same in accordance with the Standard Operating Procedures.

**15. Transferability of EWR.-** The EWR issued by a Warehouse Operator may be traded on Futures Exchange to another person and such other person holding EWR, as the case may be, shall be entitled to receive the Produce specified in it. For the purpose of settlement of EWR, the Futures Exchange shall establish connectivity with the electronic warehouse receipt system of CMC and shall fulfill all the parameters, conditions, instructions as specified by the CMC in the Standard Operating Procedures.

**16. Delivery of Produce to be made after due charges are paid.-** The Warehouse Operator shall deliver the Produce to the depositor or endorsee subject to payment of all dues to the warehouse and cancellation of the EWR.

**17. Withdrawal of Produce.-** Produce deposited in the Warehouse by the Depositor of Produce on the basis of which EWR has been issued by Warehouse Operator may be withdrawn subject to such terms and conditions and such manner as prescribed in the Standard Operating Procedures.

**18. Maintenance of Record of EWR.-** (1) The CMC shall maintain a record of,-

- (a) total number and value of the EWR issued;
- (b) date of issuance of the EWR;
- (c) date of expiry of the EWR;
- (d) the commodity for which the EWR has been issued;
- (e) quality and quantity of the commodity as specified in the EWR;
- (f) any EWR that has been cancelled by the CMC;
- (g) any transaction that has been carried out on the EWR; and
- (h) any other information as may be required by the Commission.

(2) The CMC shall submit a summary of all EWRs issued, along with the total value of the relevant Produce, on monthly basis to the Commission.

(3) The CMC shall inform the Commission immediately of any loss, damage or destruction of any record or report in relation to the EWR.

**19. Pledging against EWR in respect of Produce.-** (1) The CMC may make necessary arrangements for provision of pledging against the EWR, issued in respect of the Produce, including the matters concerning the collateral management of such financing and matters connected therewith in accordance with such terms and conditions as may be provided by the CMC in its Standard Operating Procedures.

Provided that the EWR may be used to create a security interest by a customer to secure its obligation or that of another person in accordance with the Financial Institutions (Secured Transactions) Act, 2016.

Explanation: Customer shall have the same meaning as assigned to it under clause (xiii) of section 1 of the Financial Institutions (Secured Transactions) Act, 2016 and shall be deemed to include an entity.

(2) The CMC shall provide the financial institutions necessary access to the data for verification of EWR.

(3) The Depositor of Produce or other person holding a EWR may create a Pledge in favor of Eligible Pledgee, by giving instruction to the Warehouse Operator, against the Produce represented in such EWR in the manner and mode as prescribed in the Standard Operating Procedures, from time to time.

(4) For the purpose of creation of Pledge on an EWR, the Warehouse Operator, Pledgor and the Eligible Pledgee shall provide such information in such forms as may be prescribed in the Standard Operating Procedures, from time to time.

(5) The CMC shall give effect to the Pledge transaction in favor of the Eligible Pledgee upon the instructions of Warehouse Operator on behalf of Depositor of Produce or such other person in whose favor EWR has been issued, within such time and in such manner as may be prescribed in the Standard Operating Procedures, from time to time.

(6) The Eligible Pledgee shall have a lien on the Produce represented through the EWR and the Warehouse Operator shall not be entitled to release the Produce from the warehouse if a pledge exists on the EWR issued against the same.

(7) The Eligible Pledgee, upon satisfaction, may release the Pledge in the manner and mode as may be prescribed in the Standard Operating Procedures, from time to time.

(8) Once the Eligible Pledgee has released the Pledge, such Produce will be available to the Depositor of Produce or other person holding an EWR. The change in the record of the EWR system shall be binding on every person concerned.

**20. Tradability of EWR.**- The Futures Exchange may offer to trade futures contracts based on EWR as commodity or traded as securities in the Securities Exchange in such terms and conditions as may be notified by the Commission.

## **CHAPTER VI DISCIPLINARY PROCEEDINGS**

**21 Restriction of Business.**- Where a CMC contravenes or fails to comply with any provision of these regulations or is not in compliance with the conditions of registration or any directive issued or order passed by the Commission, or it is in the public interest to do so, the Commission may, after providing a reasonable opportunity of representation to the CMC, take

such actions or impose such restrictions on its business as provided under this Act, SECP Act, 1997 and the Futures Market Act, 2016.

**22. Withdrawal of Registration as a CMC.-** (1) The Commission, after providing a reasonable opportunity of being heard to the CMC, may withdraw the registration granted under sub-regulation (5) of Regulation 4 if,-

- (a) in the opinion of the Commission the CMC has been in violation of any provision of these regulations or restrictions imposed under regulation 21; or
- (b) it is found guilty of fraud; or
- (c) it has in any other manner become incompetent to carry out its functions as required under these Regulations.

(2) The Commission while withdrawing such registration may take such measures and issue such directions as it deems appropriate in accordance with this Act including but not limited to initiation of winding up of the CMC.

(3) The registration of a CMC shall stand automatically cancelled if such CMC,-

- (a) voluntarily surrenders its certificate of registration to the Commission; or
- (b) is wound up by an order passed by a court of competent jurisdiction.

(4) Upon withdrawal of registration or initiation of winding up proceedings by the Registrar of Companies, the CMC shall with immediate effect cease its business as a CMC and transfer all the necessary record to another CMC with the prior approval of the Commission.

(5) The CMC whose registration has been withdrawn, shall fulfill its obligations in relation to any accreditation activity pending, *inter alia*, furnishing of reports, submission of documents etc.

**23. Dissemination of information of Withdrawal of Registration.-** Upon withdrawal of registration of CMC, the Commission shall publish the said information in widely circulated English and Urdu newspapers, along with the rationale for the said decision, and the order shall also be placed by the Futures Exchange on its website.

Provided that in case of suspension or cancellation, the EWR issued by a Warehouse Operator through the electronic warehouse receipt system of the CMC whose registration has been suspended or cancelled, shall be honored by such CMC provided that such EWR is bonafide.

Provided also that all the bonafide Warehouse Operators and their relevant warehouses, that meet the criteria of these regulations and accredited by such CMC, shall be eligible to operate normally subject to the condition that they shall obtain a certificate of accreditation from a registered CMC within a period of two months or such other time as may be notified by the Commission on case to case basis subject to such conditions or limitations as may be imposed by the Commission.

**24. Grounds for imposition of Restriction on or Suspension or Cancellation of accreditation of Warehouse.-** (1) The accreditation of Warehouse to the electronic warehouse receipt system may be restricted, suspended or cancelled upon occurrence of any of the events set out below:

- (a) Warehouse Operator violates the provisions as specified in these Regulations and Standard Operating Procedures made thereunder; or
  - (b) Warehouse Operator does not comply with the instructions of the Depositor of Produce and is required to do so under the provisions of the Act, Regulations, Warehouse Guidelines and Standard Operating Procedures; or
  - (c) Warehouse Operator carries on the activities in a manner which is detrimental to the interests of the stakeholders of the electronic Warehouse Receipt System and continued existence of the CMC as well as the interests of the Depositors of Produce or such other person holding EWR.
- (2) Upon occurrence of any of the aforementioned events, the CMC may:
- (a) Impose Restrictions on the Warehouse; or
  - (b) Suspend the accreditation of Warehouse; or
  - (c) Cancel the accreditation of Warehouse.
- (3) If the CMC restricts, suspends, or cancels accreditation of Warehouse, CMC shall not allow such transactions or activities as specified in the Standard Operating Procedures.
- (4) Depositor of Produce or such other person holding EWR may obtain the custody of such Produce in accordance with the mode and manner prescribed in the Standard Operating Procedures.
- (5) If the CMC is satisfied that the circumstances leading to the restriction or suspension no longer exist, the CMC shall cease the enforcement action with immediate effect and shall notify the concerned person in accordance with the Standard Operating Procedures.

## **CHAPTER VII MISCELLANEOUS**

**25. Conduct Inspection and Investigation.-** Notwithstanding anything contained in the provisions herein above, the Commission shall have the power to carry out inspections and investigation of the CMC and any matter connected therewith.

**26. Power of the Commission to issue Directions.-** (1) Where the Commission is satisfied that it is necessary and expedient so to do in the public interest or to prevent the affairs of any CMC or Warehouse that are likely to prejudice the interests of the stakeholders, the Commission may issue directions to the CMC or the Warehouse Operator by notice in writing either of a general or specific nature.

(2) The Commission may, on representation made to it or on its own motion, modify or cancel any direction issued under sub-regulation (1), and in so modifying or canceling any direction may impose such conditions as it deems fit.

**27. Penalty for Contravention of Regulations.**- Whoever fails or refuses to comply with, or contravenes any requirements of the regulations shall be punishable with penalty as provided under subsection (2) of section 512 of the Act.

**Schedule I**  
**[See regulation 4(5)]**

**FIT AND PROPER CRITERIA DEFINITIONS**

"Key Executive" means key executives of the CMC and includes, inter alia, the persons discharging the following functional responsibilities,-

- a. Any executive, officer acting as second to chief executive officer including chief operating officer or by whatever name called;
- b. chief financial officer, head of accounts or head of finance;
- c. head of internal audit;
- d. head of information technology;
- e. head of risk management;
- f. head of human resource;
- g. head of operations;
- h. head of inspections;
- i. head of marketing/sales;
- j. head of law, company secretary or compliance officer; and
- k. any other functional responsibility which the Commission may include.

**APPLICATION AND SCOPE**

- (1) The Fit and Proper Criteria in relation to a CMC is applicable to the following persons:
  - (i) Promoters and major shareholders of the CMC;
  - (ii) Directors of the CMC;
  - (iii) Chief Executive of the CMC;
  - (iv) Key Executives of the CMC.
- (2) A proposed director or chief executive of the CMC shall not assume the charge of office until his appointment has been approved by the Commission.
- (3) The application for seeking approval of the Commission under clause 3(1) shall be submitted by the CMC along with the requisite information required under Annexure "A" and an Affidavit as specified in Annexure "B".
- (4) The appointment of Key Executives of a CMC does not require the approval of the Commission; however, a CMC shall ensure at the time of appointing a Key Executive that such person qualifies the Fit and Proper Criteria by submitting information as specified in Annexure "C".

Provided that the CMC shall submit the requisite details of the key executives appointed in terms of Annexure "C" of these Regulations within three months of grant of registration.
- (5) The fitness and propriety of any person shall be assessed by taking into account all the relevant factors including but not limited to the following:



- (a) Integrity and track record of such person;
- (b) Financial soundness of such a person;
- (c) Competence and capability of the person; and
- (d) Conflict of interest of such person with the business of the CMC.

Provided that 5(c) may not be considered while assessing the fitness & propriety of promoters and major shareholder of the CMC.

Provided further that in case the sponsor and major shareholder is a body corporate, in addition to the relevant/ applicable clauses, corporate behavior of the said body corporate and its sponsors shall be duly considered.

- (6) The Fit and Proper Criteria is perpetual in nature and a CMC shall ensure compliance with the provisions of Fit and Proper Criteria.
- (7) All persons subject to Fit and Proper Criteria shall report any change with reference to their fitness and propriety to the respective CMC within three business days of such change taking effect and the CMC shall within a period of seven business days from the date of receipt, report the same to the Commission.
- (8) The CMC shall monitor whether any change in the status of its chief executive, directors and key executives is contrary to the requirements of the Fit and Proper Criteria. In case of any change in status result in non-compliance with the Fit and Proper Criteria, the CMC shall immediately stop the person from performing his assigned functions, informs the Commission and initiate the process for replacement of the individual with a fit and proper individual.
- (9) Any violations or circumvention of the Fit and Proper Criteria shall be dealt with under the provisions of the Ordinance.

## **ASSESSMENT OF FITNESS AND PROPRIETY**

### **(a) Integrity and Track Record**

A person shall not be considered Fit and Proper if he:

- (i) has been convicted of an offence involving moral turpitude;
- (ii) has been involved in the mismanagement of investments, financial or business misconduct, fraud etcetera;
- (iii) has been the subject to adverse findings, after conducting an inquiry, by the Commission or any other regulatory or professional body or government agency;
- (iv) has been actively involved in the management of a company or firm whose registration or registration 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) is ineligible, under the Ordinance or any other legislation or regulation, from acting as a director or serving in a managerial capacity of a CMC or a company;
- (vi) has entered into a plea bargain arrangement with the National Accountability Bureau; and
- (vi) in case of promoters or major shareholder of CMC, does not have the requisite disclosed and verifiable financial resources.

**(b) Financial soundness**

In determining a person's financial soundness, the following shall be considered:

- (i) whether such person's financial statements or record including wealth statements or income tax returns or assessment orders are available;
- (ii) whether the person has been declared by a court of competent jurisdiction as defaulter in repayment of loan to a financial institution;
- (iii) whether any instance of overdue or past due payment to a financial institution, irrespective of amount, is appearing in the overdue column of latest CIB report of the person and of the companies, firms, sole proprietorship etc. where the person is a chief executive, director (other than nominee director), owner or partner etc.
- (iii) Provided that the Commission shall provide an opportunity of making representation to the person in case of overdue or past due payment;
- (iv) Provided further that the following exceptions may be granted by the Commission for the purpose of this sub-clause in case where:-
  - (a) Amount overdue is under litigation and the same is also appearing as amount under litigation in the CIB report; and
  - (b) No overdue payment appearing in the overdue column in the subsequent latest CIB report.
- (v) whether the person has applied to be adjudicated as an insolvent and his application is pending;
- (vi) whether the person is an un-discharged insolvent; and
- (vii) whether the person has been declared a defaulter by a stock exchange or futures exchange.

**(c) Competence and Capability**

In determining a person's competence and capability the following shall be considered:

- (i) the directors should be individuals having management or business experience of at least five years at a senior level;

- (ii) the directors shall have experience and knowledge in any profession such as finance, accounting, marketing, trading, agriculture, etc.;
- (iii) the chief executive should have a minimum experience of five years in a senior management position with preferably 2 years' experience in collateral management and warehousing business;
- (iv) the chief executive should have demonstrated, through his qualification and experience, the capacity to successfully undertake the cognate responsibilities of the position; and
- (v) the key officers must be qualified professionals possessing relevant experience and certification relating to the job or assignment.

**(d) Conflict of interest**

The directors or chief executive of CMC shall not be a director in any other CMC engaged in a similar business in Pakistan.

Provided that this condition shall not apply to nominees of the Federal or Provincial Governments on the board of any CMC .

**Schedule II**  
**[See regulation 11(5)]**  
**Duties of Warehouse Operator**

- I. **Reasonable care of the Produce deposited/sold/transferred.-** Every Warehouse Operator shall exercise prudence in taking care of the Produce deposited/sold/transferred.
- II. **Precautions against damage or harm to Produce.-** (1) Every Warehouse Operator shall keep his Warehouse clean and free from dampness and take all necessary precautions against pests, etc.
- (2) No Warehouse Operator shall accept Produce for deposit which is likely to cause damage to other Produce which is or may be deposited in such Warehouse.
- III. **Preservation of identity of Produce.-** Every Warehouse Operator shall keep the Produce of one depositor/seller/transferor separate from the Produce of other depositors/sellers/transfersors and from other Produce of the same depositor/seller/transferor for which a separate receipt has been issued, in such a manner so as to permit, at all times, the identification and delivery of the Produce deposited/sold/transferred against the related EWR, duly accounting for the specified weight reduction percentage due to moisture shrink.
- Provided that where standardized and graded Produce are stored in a Warehouse, the same variety of Produce belonging to different depositors/seller/transferor may be commingled together and each depositor/seller/transferor shall be entitled only to his portion of the Produce according to weight or quantity, as the case may be, as shown in the EWR .
- IV. **Insurance of Produce in a Warehouse.-** (1) A Warehouse Operator shall be responsible to maintain the quality, quantity and weight of the Produce of the depositor and shall obtain necessary insurance for the Produce stored in his Warehouse.
- (2) In case of financing provided by a Financial Institution against an EWR, the liabilities of such Financial Institution shall be discharged first before the claim of the depositor or the Warehouse in circumstances part or whole Produce is destroyed.
- V. **Transfer of Produce.-** Transfer of Produce from a warehouse to any other location will always require NOC from the CMC and a Financial Institution, as the case may be, and in case the registration of such CMC has been cancelled by the Commission, the direction of the Commission shall prevail.
- VI. **Excess in Produce stored. -** If there is any excess in the Produce stored/sold/transferred in a Warehouse by absorption of moisture or other causes beyond the control of the Warehouse Operator, the Warehouse Operator shall not be entitled thereto.
- VII. **Reconciliation of Produce.-** Warehouse shall reconcile the physical stock of the Produce in its custody with the records of EWR and such reconciliation shall be undertaken on a

monthly, biannual and yearly basis, or at such frequency and in such format and manner as the CMC may prescribe from time to time in the Standard Operating Procedures.

Provided that where any discrepancy is discovered as a consequence of the reconciliation carried out by the Warehouse Operator, it shall notify the CMC the details of such discrepancy within three (3) business days after the date on which the discrepancy is discovered.

**(a) Information to be provided by promoters, major shareholders (other than a body corporate), proposed directors and proposed chief executive of the CMC**

1.	Curriculum Vitae/Resume containing:
a	Name: (former name if any):
b	Father's or Husband Name:
c	C.N.I.C # / Passport # (In case of foreign nationals) –(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: (attach copy)
	ii) Professional:
k	Trainings
l	Experience: Position held during the last ten years (along with name and address of company/institution/ body where appointment held, nature of the company/institution/body and dates of appointment).
2.	Status of directorship    Shareholder <input type="checkbox"/> Nominee <input type="checkbox"/> Name of the shareholders/ Group of shareholders he is representing Nature of directorship    Executive <input type="checkbox"/> Non-executive <input type="checkbox"/> Independent <input type="checkbox"/> Non-independent <input type="checkbox"/> Number of shares subscribed or held _____ Personal net worth* (copy of wealth statement) _____ *(not required for nominee director)

3.	Names of companies, firms, sole proprietorships and other organizations of which the proposed person is a chief executive, director, partner, sponsor, or major shareholder.
4.	<p>(1) CIB report issued by SBP for the companies, firms, sole proprietorships, etc. where the applicant is a director (sponsor or major shareholder), chief executive, partner or owner (attach CIB reports)</p> <p>(2) An undertaking providing details of the following:</p> <ul style="list-style-type: none"> <li>I. Any write off availed from any Financial Institution during the last five years</li> <li>II. Any default of Finance obtained from any Financial Institution during the last five years.</li> <li>III. Placement on ECL during the last five years</li> <li>IV. Any conviction from any Court of Law or any plea bargain with NAB during the last ten years</li> <li>V. Any write off or default by any related or affiliated person or by any company on whom the applicant or anyone closely related to him had an interest as sponsor, major shareholder, director, chief executive, key executives, etc. during the last five years</li> </ul>
5.	In the case of appointment of directors the date of board of directors' meeting in which the appointment of proposed director was approved. (Attach copy of the minutes of the meeting of the board of directors. If the director is elected, then attach a copy of the minutes of the general meeting of the company.)
6.	Names of persons on the board of the CMC who are related to the applicant.

**Signature**

\*use additional sheets if required

**(b) Information to be provided by a body corporate as promoters and major shareholders of the Collateral Management Company:**

1. Financial statements for the last three years;
2. Details of business places;
3. Shareholding details;
4. CIB report of the company and its directors and sponsors;
5. Details of any write off availed from any Financial Institution during the last five years;
6. Details of any default of Finance obtained from any Financial Institution during the last five years;
7. Details of any rescheduling of Finance obtained from any Financial Institution during the last five years;
8. Details of associated companies and subsidiaries;
9. Details of any inquiry, investigation conducted by the Commission or any other regulatory or professional body or government agency during the last five years; and
10. Any other information as may be required by the Commission.

**Affidavit Before the Securities and Exchange Commission of Pakistan**

**(On Stamp Paper of Appropriate Value)**

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 \_\_\_\_\_ according to the Fit and Proper Criteria for the position of \_\_\_\_\_, annexed to the Collateral Management Companies Regulations, 2019.
2. That I hereby confirm that the statements made, undertakings provided and the information given by me including that required under Schedule I is correct and that there are no facts which have been concealed.
3. That I have no objection if the Securities and Exchange Commission of Pakistan requests or obtains information about me from any third party.
4. That I undertake to bring to the attention of the Securities Exchange Commission of Pakistan any matter which may potentially affect my status for the position of \_\_\_\_\_ as per the Fit and Proper Criteria annexed to the Collateral Management Companies Regulations, 2019.
5. That all the documents provided to Securities Exchange Commission of Pakistan are true copies of the originals and I have compared the copies with their respective originals and certify them to be true copies thereof.

**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 (Name and Seal)**



**Information to be provided by Key Executives of the CMC**

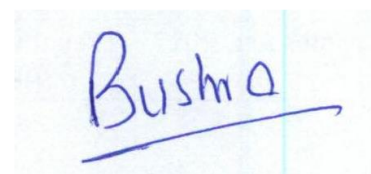
1. Position and Grade held by the Officer
2. Date of assumption of current position (dd/mm/yyyy)
3. Curriculum Vitae/ Resume containing:
  - a) Name (Former name, if any)
  - b) Father or husband name
  - c) CNIC # / Passport # (In case of foreign nationals)
  - d) Nationality
  - e) Age
  - f) Contact details
    - i. Residential address
    - ii. Business address
    - iii. Telephone
    - iv. Mobile
    - v. Fax
    - vi. Email
  - g) National tax number
  - h) Education
    - i. Academic qualification
    - ii. Professional qualification
    - iii. Trainings
4. Previous Employment(s)
5. Latest photograph
6. Has the executive ever been convicted of any offence? If yes, please provide details
7. Has the executive ever been censured or penalized by any financial regulator (local or foreign)? If yes please give details.
8. Has the executive ever been dismissed from employment? If yes please give details
9. An undertaking providing details of the following:
  - i. Any write off availed from any Financial Institution during the last five years
  - ii. Any default of Finance obtained from any Financial Institution during the last five years.
  - iii. Placement on ECL during the last five years
  - iv. Any conviction from any Court of Law and plea bargain with NAB during the last ten years

**(Signature of the concerned official)**

(Signature and Stamp of Employer)

---

File No. SY/SECP/8/13



**BUSHRA ASLAM  
EXECUTIVE DIRECTOR**