

**Government of Pakistan**  
**Securities and Exchange Commission of Pakistan**

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*Islamabad, the 1<sup>st</sup> October, 2018*

**NOTIFICATION**

**S. R. O. 1170 (I)/2018.-** In exercise of the powers conferred under section 40, read with clause (w) of sub-section (4) of section 20 of the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997), the Securities and Exchange Commission of Pakistan, in consultation with the Securities and Exchange Policy Board, is pleased to make the following amendments to the Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018, the same having being previously published in the official Gazette vide S.R.O 1081(I)/2018 dated 31<sup>st</sup> August 2018, as required under sub-section (2) of said section 40, namely:-

In the aforesaid Regulations,-

- (1) for the expression “Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997), wherever appearing, the expression “Act” shall be substituted;
- (2) in regulation 2, sub-regulation (1),-
  - (a) before clause (a) the following new clauses shall be inserted, namely:-
    - “(aa) “Act” means Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997);
    - (ab) “administered legislation” shall have the same meaning as assigned to it in clause (aa) of sub-section (1) of section 2 of the Act;”;
  - (b) in clause (d), at the end, the following explanation shall be added, namely:-

“**Explanation:-** For the purposes of this definition the expression “ultimately own or control” or “ultimate effective control” refers to situation in which the ownership or control is exercise through a chain of ownership having substantial shareholding, directly or indirectly, or by means of control other than direct control and includes beneficial owners of a beneficiary under a life or other investment linked insurance policy or scheme or any other instrument availed by the customer in financial services market;”;

- (c) for clause (f), the following shall be substituted, namely:-
- “(f) “business relations” means provision of any financial services by the regulated person under the administered legislation;”;
- (d) after clause (i), the following new clause shall be inserted, namely:-
- “(ia) “customer” means any natural person, legal person or legal arrangement to whom financial services has been extended by a regulated person;”;
- (e) in clause (k), after the word “Terrorism” the expression “TF” shall be added;
- (f) for clause (o), the following shall be substituted, namely:-
- “(o) “Legal arrangements” includes express trusts or any other similar legal arrangements;”;
- (g) for clause (p), the following shall be substituted, namely:-
- “(p) “Legal persons” means entities other than natural persons whether incorporated or not or a legal arrangement that can establish a permanent customer relationship with a regulated person or otherwise own property and include companies, bodies corporate, foundations, Limited Liability partnership (LLP), partnerships, or associations and other relevantly similar entities;”
- (h) in clause (r), the term ML shall be deleted and after the word “Money Laundering” the expression “ML” shall be added;
- (i) in clause (u), for the word “commodities brokers” the word “futures broker” shall be substituted; and
- (j) in clause (v), for the word “risk” appearing for the first time, the word “Risk” shall be substituted;
- (3) in regulation 4, for the words “A Regulated Person shall” appearing for the beginning, the expression “A regulated person shall be required to implement counter ML and TF measures, which have regard to the ML and TF risks and the size of the business, and include-” shall be substituted;

(4) in regulation 6,-

(a) after sub-regulation (5), the following new sub-regulation shall be inserted, namely:-

“(5a). A regulated person shall not form business relationship with entities and/or individuals that are:

(a) designated under the United Nations Security Council Resolutions and adopted by the Government of Pakistan;

(b) proscribed under the Anti Terrorism Act, 1997(XXVII of 1997); and

(c) associates/facilitators of persons mentioned in (a) and (b).”; and

(b) for sub-regulation (11), the following shall be substituted, namely:-

“(11) Where regulated person are not able to satisfactorily complete required CDD measures, account shall not be opened or existing business relationship shall be terminated and consideration shall be given if the circumstances are suspicious so as to warrant the filing of an STR in relation to the customer.”;

(5) in regulation 7,-

(a) in sub-regulation (1),-

(i) for the expression “Where the customer is a legal person, in addition to other measures the regulated person shall-” at the beginning, the expression “Where the customer is a legal person, the regulated person, in addition to other measures, shall acquire and use requisite information and data obtained from a reliable source, for the following purposes-” shall be substituted; and

(ii) for clause (b), the following shall be substituted, namely:-

“(b) identify and verify the identity of the natural persons (whether acting alone or together) who owns or ultimately has controlling ownership interest in the legal person;”; and

(iii) for clause (c), the following shall be substituted, namely:-

“(c) where there is doubt under clause (b) as to whether the

natural persons who ultimately own or has controlling ownership interest in the legal person are the beneficial owners or where no natural persons ultimately own or exert control through ownership interest in the legal person, identify the natural persons (if any) who ultimately control the legal person or have ultimate effective control of the legal person”; and

- (iv) in sub-regulation (2), for the words “Where the customer is a legal arrangement, the regulated person shall-” the expression “Where the customer is a legal arrangement, the regulated person shall, in addition to other measures, acquire and use requisite information and data obtained from a reliable source, for the following purposes,-” shall be substituted;
- (6) in regulation 9,-
  - (a) in the heading, after the word “Diligence” the expression “(EDD)” shall be added;
  - (b) for sub-regulation (3), the following shall be substituted, namely-

“(3) Regulated person shall perform enhanced due diligence (EDD) proportionate to risk posed to the business relationship by the customers, that are identified as high risk, or are notified as such by the Commission.”;
- (7) in regulation 11, sub-regulation (2) appearing for second time shall be renumbered as (3);
- (8) in regulation 12,-
  - (a) in sub-regulation (3), after clause (b), the following new clause shall be inserted namely:-

“(c) the implementation of those CDD and record-keeping requirements and AML/CFT programmes shall be supervised at a group level by a competent authority”;
  - (b) in sub-regulation (4) for the words “obligations and shall carry out ongoing monitoring of such customers itself” the words “obligations, including generating STRs and shall carry out ongoing monitoring of such customers itself” shall be substituted;
- (9) in regulation 13,-
  - (a) for sub-regulation (3) the following shall be substituted, namely:-

“(3) Regulated person shall periodically review the adequacy of customer information obtained in respect of customers and beneficial owners and ensure that the information is kept up to date and relevant, by undertaking reviews of the existing records, particularly for higher risk categories of customers and the review period and procedures thereof should be defined by regulated person in their AML/CFT policies, as per risk based approach”;

(b) sub-regulation (6) shall be omitted; and

(c) for sub-regulation (7), the following shall be substituted, namely:-

“(7) The regulated person should monitor the relationships with the entities or individual referred in sub-regulation (5a) of regulation 6, on a continuous basis and ensure that no such relationship exists directly or indirectly, through ultimate control of an account and where any such relationship is found, the regulated person shall take immediate action as per law, including freezing the funds and assets of such proscribed entity/individual and reporting to the Commission.”;

(10) after regulation 14, the following new regulation shall be inserted, namely:-

**“14A. Counter Measures against high risk countries.-** (1) Regulated persons shall adopt counter measures, including but not limited to, enhance due diligence proportionate to the risk, to the business relationship and transactions with their customer belonging to such countries for which this is called upon by FATF and/or as notified by the Federal Government.

(2) The Commission, on the advice of the Federal Government regarding weakness in the AML/CFT systems of other countries, shall direct the Regulated Person to adopt counter measures in accordance with these regulations with the customers belonging to such countries.”; and

(11) in regulation 15, for sub-regulation 3 of following shall be substituted, namely:-

“(3) The records of identification data obtained through CDD process like copies of identification documents, account opening forms, Know Your Customer forms, verification documents, other documents and result of any analysis undertaken along with records of account files and business correspondence, shall be maintained for a minimum period of five years after termination of the business relationship”;

(12) in regulation 20, before clause (a), the following new clause shall be inserted, namely:-

“(aa) have screening procedures to ensure high standards when hiring employees;”.

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( Bilal Rasul )

Secretary to the Commission