PART II

Statutory Notifications (S. R. O.)

GOVERNMENT OF PAKISTAN

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

NOTIFICATION

Islamabad, the 19th September, 2019

S. R. O. 1118(I)/2019.—The following draft amendments to the Clearing Houses (Licensing and Operations) Regulations, 2016, proposed to be made by the Securities and Exchange Commission of Pakistan, in exercise of powers conferred by section 169 of the Securities Act, 2015(III of 2015), are hereby published for information of all persons likely to be affected thereby and, as required by sub-section (4) of the said section 169, notice is hereby given that objections or suggestions thereon, if any, may be sent to the Commission within fourteen days of placement of draft amendments on the website of the Commission, namely:—

In the aforesaid Regulations,—

(1) In sub-regulation (e) of regulation 5, the phrase “including any outsourcing arrangement as allowed under these regulations” shall be inserted after the terms “mechanism for clearing members”.

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(2) In clause (a) of sub-regulation (3) of regulation 11, the phrase “unless otherwise outsourcing to the extent permitted under these regulations” shall be inserted after the terms “regulatory functions of the clearing house”.

(3) In clause (d) of sub-regulation (3) of regulation 11, the phrase “unless otherwise outsourced to the extent permitted under these regulations,” shall be inserted after the terms “regulatory framework, policies and procedures” and before the terms “and take enforcement actions under”.

(4) In clause (e) of sub-regulation (3) of regulation 11, the phrase “unless otherwise outsourced to the extent permitted under these regulations” shall be inserted after the terms “required to be conducted by a clearing house”.

(5) After regulation 11, the following new regulation 11A shall be inserted, namely:—

11A. outsourcing of compliance functions.— (1) A clearing house may enter into an arrangement with securities exchange, with the prior approval of the commission, for outsourcing its compliance function with respect to its participants which are TRE certificate holders in the following manner:

(a) the clearing house shall enter into a service level agreement with the securities exchange for outsourcing the compliance function after obtaining approval of its board of directors with respect to shifting of employees and defining the role, responsibilities, duties, obligations of securities exchange, scope of services, remuneration of shifting compliance function, indemnification to the clearing house and any other important matter;

(b) upon signing the service level agreement and from the effective date provided in the agreement, the securities exchange shall monitor compliance of the clearing members which are TRE certificate holders with applicable legal and regulatory framework, policies and procedures of the clearing houses;

(c) upon signing the service level agreement and from the effective date provided in the agreement, the securities exchange shall supervise or conduct any investigation, inspection or enquiry required to be conducted by a clearing house in respect of Participants which are TRE certificate holders;
(d) upon signing of the service level agreement, the securities exchange shall be fully responsible for effectively discharging all the obligations under the legal and regulatory framework and policies and procedures applicable on the clearing house, relating to monitoring compliance, inspections and investigation in respect of participants which are TRE certificate holders;

(e) the clearing house shall maintain liaison with the chief regulatory officer of the securities exchange and jointly develop procedures for enabling the securities exchange in performing functions relating to monitoring compliance, inspections and investigation in respect of participants which are TRE certificate holders.

(2) The clearing house shall be fully liable and accountable for the compliance functions that are being outsourced to the same extent as if the functions were performed in-house."

(6) In sub-regulation 6 of regulation 14, the phrase “and compliance functions” shall be deleted.

(7) In regulation 14, after sub-regulation (6), the following new sub-regulation (7) shall be inserted, namely:

“(7) The clearing house may outsource its compliance function subject to compliance with the conditions specified in section regulation 11A. ”

[No. SMD/SE/2(272)/2016.]

BILAL RASUL,
Secretary to the Commission.