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PART II

Statutory Notifications (S.R.O.)

GOVERNMENT OF PAKISTAN

**SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN**

NOTIFICATION

*Islamabad, the 10th January, 2020*

**S. R. O. 26(I)/2020.**—The following draft amendments to the Securities Brokers (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) and section 114 of the Futures Market Act, 2016 (XIV of 2016), are hereby published for the information of all persons likely to be affected thereby and, as required by sub-section (4) of the said section 169 and sub-section (4) of the said section 114, 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,—

41(1—11)

*Price : Rs. 20.00*

[5034(2020)/Ex. Gaz.]

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

*“5A. Categorization of securities brokers.—(1) The application for licence under these regulations may be made for any one of the following categories of securities brokers—*

- (a) “Trading Only” category shall mean that a securities broker can only execute its proprietary trades and trades on behalf of its customers but cannot settle executed trades or keep custody of securities or money owned by it and its customers.*
- (b) “Trading and Self-Clearing” category shall mean that a securities broker can execute as well as settle its proprietary trades and trades executed on behalf of its customers and can keep custody of securities and money owned by it and its customers subject to such conditions as may be imposed by the Commission.*
- (c) “Trading and Clearing” category shall mean that a securities broker can execute as well as settle its proprietary trades and trades executed on behalf of its customers and can keep custody of securities and cash owned by it and its customers subject to such conditions as imposed by the Commission and, in addition, such securities broker can settle trades of other securities brokers and their customers and keep custody of the securities and cash owned by such other securities brokers and their customers.*

*(2) Securities brokers already licensed under these regulations shall be required to convert to any one of the categories mentioned in sub-regulation (1) through submitting an application for conversion to a specific category on or before April 15, 2020 along with an affidavit that securities broker shall comply with the financial resource requirement of the respective category till June 30, 2020:*

*Provided that from the date of application under sub-regulation (2) any securities broker which has applied for the Trading Only category shall not open accounts of any new customers till the time it transfers its clearing, settlement and custody functions within a transition period as specified under sub-regulation (3).*

- (3) A securities broker licensed under these regulations, which does not comply with financial resource requirements for Trading and Self-Clearing category specified under these regulations, shall apply*

*for conversion to “Trading Only” category by April 15, 2020, subject to compliance with financial resource requirements of the respective category, and shall be required to transfer its clearing, settlement and custody functions till August 31, 2020 or such extended date as may be specified by the Commission.*

(3) In regulation 6, sub-regulation (1) shall be substituted with the following, namely:—

*“(1) An applicant for a licence as a securities broker shall comply with and ensure ongoing compliance with minimum paid up capital and net worth of Rupees thirty five (35) million and net capital balance of Rupees five (5) million:*

*Provided that from July 1, 2020 the financial resource requirements as provided under sub-regulation 1(A) shall be applicable on securities brokers.*

*Provided further that existing securities brokers who are non-compliant with the above prescribed financial resource requirements in respect of paid up capital and net worth, shall be deemed compliant with the financial resource requirements till July 1, 2020 subject to submission of application for conversion to new category of securities brokers under regulation 5A.”*

(4) In regulation 6, after sub-regulation (1) the following new sub-regulation (1A) and (1B) shall be inserted, namely:—

*“(1A) With effect from July 1, 2020, each securities broker shall be required to comply with and ensure ongoing compliance with the following levels of minimum net worth and net capital balance for each category:*

<b>Category of securities broker</b>	<b>Minimum Net worth -PKR million-</b>	<b>Minimum Net Capital Balance -PKR million-</b>
<i>Trading Only</i>	<i>15</i>	<i>Not applicable</i>
<i>Trading and Self Clearing</i>	<i>100</i>	<i>10</i>
<i>Trading and Clearing</i>	<i>500</i>	<i>15</i>

*Provided that the minimum net worth requirement for Trading and Self Clearing category shall be increased to rupees 125 million with effect from July 1, 2021:*

*Provided further that a securities broker with minimum net worth of rupees 250 million, which is a subsidiary of a bank with minimum long term credit rating of AA- and is compliant with the minimum capital requirements of the State Bank of Pakistan, may be issued licence for the Trading and Clearing category if it is in compliance with all other conditions applicable on the Trading and Clearing category.*

*(1B) Securities brokers which obtain licence under Trading and Self Clearing or Trading and Clearing category shall be permitted to retain custody of proprietary and customer assets as follows:*

<b><i>Category of securities broker</i></b>	<b><i>Assets Under Custody Limit</i></b>
<i>Trading and Self Clearing</i>	<i>25 times of net worth of securities broker</i>
<i>Trading and Clearing</i>	<i>35 times of net worth of securities broker</i>

*Provided that where a Trading and Clearing category securities broker, which is keeping custody of the securities and cash owned by other securities brokers and their customers, is facing difficulty in complying with the asset under custody limit, the Commission may, on an application made by such Trading and Clearing category securities broker to the Commission, enhance the asset under custody limit for such securities broker to such number of times of net worth of such securities broker as deemed appropriate by the Commission on case to case basis, subject to following conditions:*

- (i) Such securities broker has a satisfactory compliance track record;*
- (ii) No significant investor claims are outstanding against such securities broker;*
- (iii) Such securities broker has entered into arrangement for providing custodial and clearing services to at least ten Trading Only brokers; and*
- (iv) Such other condition as may be prescribed by the Commission.”*

*(5) In regulation 6, sub-regulation (3) shall be substituted by the following, namely,—*

*“(3) A securities broker shall file monthly statements of net capital balance and liquid capital with the securities exchange and clearing house computed in a manner specified in Schedule I and III*

*respectively, immediately after coming into force of these regulations, and shall also submit reviewed statement of net capital balance as on close of second quarter of its year of accounts and shall also disclose the calculation of net capital balance in its annual audited financial statements in accordance with regulation 34.”*

(6) In regulation 6, sub-regulation (4) shall be substituted by the following, namely,—

*“The securities broker shall start maintaining minimum liquid capital as per such amounts and/or ratios and after such period of time as may be specified by the Commission and upon such specification by the Commission, the securities broker shall be required to disclose the calculation of liquid capital in its annual financial statements and shall be required to submit reviewed statement of liquid capital as on close of second quarter of its year of accounts, and the requirement to maintain net capital balance, the requirement to submit monthly statements of net capital balance and the requirement to submit half yearly audited statements of net capital balance shall be discontinued;*

*Provided that the above requirements to maintain the net capital balance or the liquid capital and to submit the statements of net capital balance and liquid capital shall not be applicable on a securities broker which has converted to Trading Only broker.”*

(7) After regulation 6, the following new regulation 7 shall be inserted, namely,—

*“7. Requirements for licence under Trading and Self-Clearing and Trading and Clearing categories.—(1) Licence Trading and self Clearing of Trading and Clearing categories shall only be granted to an applicant as a clearing member by the clearing house and a participant by the central depository.*

*(2) From the conversion of licence under new categories of brokers after July 01, 2020, the requirements under sub-regulation (12) of regulation 16, sub-regulation (3) of regulation 25, sub-regulation (2) of regulation 29 and regulation 37 shall not be applicable to the Trading Only category.*

*(3) Applicants opting for the Trading and Self-Clearing category shall comply with the following minimum requirements—*

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- (a) *compliance with the Listed Companies (Code of Corporate Governance) Regulations, 2019 and shall mandatorily comply with the following requirements:*
- (i) *It must have at least 2 or one-third members of the board, whichever is higher, as independent director;*
  - (ii) *The Chief Financial Officer must meet the minimum qualification requirements;*
  - (iii) *The Head of Internal Audit must meet the minimum qualification requirements;*
  - (iv) *Audit Committee must be constituted by the Board as per the requirements of regulation 17 of the Listed Companies (Code of Corporate Governance) Regulations, 2019;*
  - (v) *Compliance with the regulation 14 of the Listed Companies (Code of Corporate Governance) Regulations, 2019 relating to the placement of significant issues before the board and/or committees; and*
  - (vi) *Compliance with regulation 35 of the Listed Companies (Code of Corporate Governance) Regulations, 2019 relating to the disclosure of significant polices on the website;*
- (b) *maintain a minimum Broker Rating, as may be specified by the Commission, from a credit rating company licensed by the Commission and disclose such rating at all times on its website and all advertisements;*
- (c) *appoint its statutory auditor from category A of the panel of auditors maintained by the State Bank of Pakistan; and*
- (d) *it complies with such additional requirements for submission of returns and statements in relation to segregation of customers' assets including reconciliation s of customer assets on as specified by the Commission from time to time.*
- (4) *Applicants opting for the Trading and Clearing category shall comply with the following minimum requirements—*
- (a) *compliance with requirements of sub-regulation (3);*

- (b) *it is a public company;*
  - (c) *it maintains a minimum long term entity rating of (A-) or equivalent from a credit rating company licensed by the Commission and disclose such rating at all times on its website and all advertisements;*
  - (d) *it maintains a minimum Broker Management Rating (BM R) equivalent to BMR 2 or above from a credit rating company licensed by the Commission and disclose such rating at all times on its website and all advertisements; and*
  - (e) *it has an acceptable track record in compliance with the applicable laws and handling of customer complaints.”*
- (8) After regulation 16, the following new regulation 16A shall be inserted, namely,—

*“16A. Additional requirements for Trading and Clearing broker.— A Trading and Clearing broker shall comply with following additional requirements:*

- (a) *within three months of the grant of licence, it has—*
  - (i) *developed an operational model inter alia covering therein, transactions flow, manner of execution of transactions, roles and responsibilities of Trading and Clearing broker and customers, risk management parameters, default handing mechanism, dispute and grievance handing mechanism;*
  - (ii) *developed and implemented an automatic order routing mechanism;*
  - (iii) *employed personnel with sufficient education, experience and expertise to allow it to carry out its obligations in accordance with the applicable regulatory framework;*
  - (iv) *developed and implemented risk management system, internal control and policies and procedures to ensure effective compliance with the applicable regulatory framework;*

- (v) *put in place infrastructure including but not limited to adequate office space, equipment and technical aspects including appropriate arrangement for clearing, settlement and custodian services, to effectively and efficiently discharge its responsibilities with capacity for ongoing maintenance of the same;*
- (vi) *within six months of the grant of license it has submitted a certificate from an independent chartered accountant firm from category A of the panel of auditors maintained by the State Bank of Pakistan for appropriateness of controls and safeguards to ensure cyber security, access to confidential information and alteration, destruction, disclosure or dissemination of records and data;*
- (vii) *it must put in place adequate internal controls, clearly documented policies and procedures and Chinese walls between its brokerage business and custodial services to Trading Only category securities brokers to manage conflict of interest and ensure confidentiality of trading and customer information of Trading Only category securities brokers;*
- (viii) *ensure fair treatment of the Trading Only category securities brokers it is providing services to and not discriminate amongst them;*
- (ix) *it must have documented business continuity plan including a disaster recovery site or shall develop the disaster recovery site within the time limit specified by the Commission;*
- (x) *it shall continuously improve the quality and efficiency of its systems and procedures, including the attainment of relevant internationally recognized certifications;*
- (xi) *it has 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; and*

*(xii) it has put in place necessary arrangements for resolving disputes and redressal of grievances arising out of clearing and settlement of trades and custody of customer assets.”*

- (9) In Form A, in clause 1, after the words “apply for licence of securities broker under” the following shall be inserted, namely,—

*“the .... Trading Only/Trading and Self-Clearing/Trading and Clearing.... Category”*

- (10) In Form A, after clause 3, the following new clause 4 shall be inserted namely,—

*“4. We are interested in offering the following additional services and hereby apply for the requisite licenses (tick the appropriate box(es)):*

- Securities and futures advisor*
- Consultant to the issuer*
- Underwriter”*

- (11) In Annexure A, under clause 4 titled “List of documents to be provided along-with application”, after sub-clause 4.12, the following new clauses shall be inserted, namely,—

*“4.12A. Entity rating of the applicant, where applicable.*

*4.12B. Broker Management Rating or Broker Rating of the applicant, as may be applicable.*

*4.12C. Name of statutory auditor of the applicant.”*

- (12) In Form B, after the words, “the application for licence by (Name of the company).... for” the following words shall be inserted, namely,—

*“....Trading Only/Trading and Self-Clearing/Trading and Clearing.... category of”*

- (13) In Form C, in clause 1, after the words, “hereby apply for the renewal of the licence of securities broker” the following words shall be inserted namely,—

*“under the ..... Trading Only/Trading and Self-Clearing/ Trading and Clearing.... Category”*

- (14) In Form C, after clause 5, the following new clause 6 shall be inserted namely,—

*“6. It is requested that our licenses for the following regulated securities activity may also be renewed (tick the appropriate box(es)):*

*Securities and futures advisor*

*Consultant to the issue*

*Underwriter”*

- (15) In Annexure D, in sub-clause (a) of clause 3, the following new proviso shall be inserted, namely,—

*“Provided that a securities broker licensed under the Trading Only category may comply with the above requirement on a voluntary basis.”*

- (16) In Annexure D, clause 7 shall be substituted by the following, namely,—

*“7. Auditors*

*A Trading and Self-Clearing and Trading and Clearing category securities broker shall have its statutory audit conducted from an auditor enlisted within Category “A” of the State Bank of Pakistan’s Panel of Auditors. A Trading Only category securities broker shall have its statutory audit conducted from an auditor which is in the list, maintained by the Institute of Chartered Accountants of Pakistan, of practicing firms having Satisfactory QCR Rating.”*

- (17) In Annexure D, after point (iii) in sub-clause (a) of clause 9, the following new proviso shall be inserted, namely,—

*“Provided that a securities broker licensed under the Trading Only category may comply with the requirement of inclusion of Directors’ Report in its Annual Report on a voluntary basis.”*

- (18) In Annexure D, in sub-clause (b) of clause 9, the following new proviso shall be inserted, namely,—

*“Provided that a securities broker licensed under the Trading Only category may comply with the above requirement in respect of quarterly financial statements on a voluntary basis.”*

[File No. SMD/SE/2(267)/2016.]

**BILAL RASUL,**  
*Secretary to the Commission.*