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PART II

Statutory Notifications (S. R. O.)

GOVERNMENT OF PAKISTAN

REVENUE DIVISION

(Federal Board of Revenue)

NOTIFICATION

Islamabad, the 23rd November, 2022

S. R. O. 2259(I)/2022.— The following draft of the Pakistan Single Window Trade Data Dissemination, Exchange and Utilization Rules, which the Federal Government proposes to be made in exercise of the powers conferred by sub-section (1) of section 21 of the Pakistan Single Window Act, 2021 (III of 2021), is hereby published for the information of all persons likely to be affected thereby and as required under sub-section (2) of the said section 21, notice is hereby given that objections or suggestions thereon may for consideration of the Federal Government be sent within fifteen days of its publication in the official Gazette.

Any action or suggestion which may be received from any person, in respect of the said draft before the expiry of the aforesaid period, will be considered by the Federal Government.

DRAFT RULES

1. Short title, application and commencement: (1) These rules shall be called the Pakistan Single Window Trade Data Dissemination, Exchange and Utilization Rules 2022.

5295(1—6)

Price: Rs. 5.00

[9987(2022)/Ex. Gaz.]

(2) These rules shall apply to all persons, entities, government departments, and other public and private firms and organizations connected to the PSW system or receiving PSW trade data for any commercial or non-commercial use.

(3) They shall come into force at once.

2. Definitions: (1) In these rules, unless there is anything repugnant in the subject or context,

(a) "Act" means the Pakistan Single Window Act, 2021 (III of 2021);

(b) "Data Recipient" means any person, entity, government department, or public and private firm and organization using or receiving data from PSW through system integration or otherwise for official use, or any other commercial or non-commercial purpose;

(c) "Trade Data" means all trade related information including trader profiles and category; commodity classification, description, quantities, values, shipping weights, method of transportation (sea, air, road/rail), country of origin or destination, port of discharge or export, transaction category, supplier information, trade remittance information received through financial instruments, amounts collected as duty, taxes, government fees and charges, business to business payments on the PSW platform, regulatory information pertaining to licences, permits, certificates, release orders, and other documents, number and frequency of transactions, shipping and transportation data, risk profiles and other such information collected or transmitted on the PSW platform or any of its allied components including the Trade Information Portal, the Port Community System, the Computerized Customs System etc., processed either directly on the system or through integration with any partner public and private sector organization under a Memorandum of Understanding (MoU), and commercial or service level agreement, and any other type of data that may be required to be generated by the operating entity upon specific instructions of the Federal Government, PSW's Governing Council, Customs or OGAs_

(2) Any other expressions used in these Rules shall have the same meaning and connotation assigned thereto in the Act or rules made thereunder.

3. **Confidentiality of Trade Data:** (1) Any trade related information, transmission, documents, data or record gathered through the PSW system under the Act shall be confidential and shall not be used except as provided under these rules.

(2) Customs and OGAs, and any other public or private sector entities exchanging data with the PSW system shall put in place adequate measures to ensure protection of personal data, personal privacy, and the confidentiality of individual records and transactions including risk profiles and other such information, and to prevent unauthorized transmission/sharing of information with other entities and individuals.

4. **Dissemination of Trade Data:** (1) The operating entity may disseminate

the trade data collected it or any of the ancillary systems linked to it including the Customs Computerized System, Port Community System, Trade Information Portal etc. or any system ancillary thereto. for any of its authorized purposes including but not limited to the following namely:-

- (i) public information and dissemination through official websites, electronic, print and digital media, research publications, news articles etc;
- (ii) compilation/publishing of cross border trade related statistics, public policy analysis and formulation etc.;
- (iii) submission before a court of law, tribunal or any other domestic or international arbitration forum or for achievement of any of the OGAs operational or enforcement requirements etc.;
- (iv) integration with international databases and single window systems of other countries/regions under any bilateral or international agreement; and
- (v) any non-commercial or commercial use as specified in rule 7 and 8.

5. **Non-Disclosure Agreement:** (1) All data recipients receiving trade data from the PSW system under any MoU, agreement, court's order or authorization by the PSW Governing Council shall undertake to treat the received data as confidential and, to not share it or otherwise make it accessible to any third party without intimating and receiving the prior approval in writing of the operating entity and subject to any other such conditions as the operating entity may specify.

(2) If disclosure of any trade data is required whether directly or indirectly under a legally binding order or other instrument issued by any local, national or international governmental regulatory or law enforcement authority or agency, tribunal, court or arbitrator that has jurisdiction over a data recipient other than Customs, OGAs or Federal or provincial government entities or data held and processed by them, the data recipient shall exercise due diligence and before making any disclosure of any PSW's trade data, take the following actions, namely:-

- (i) promptly notify the operating entity of such disclosure and the terms thereof and provide the operating entity with a legal opinion that such disclosure is legally binding on it and that the legal process is sufficient and valid; and
- (ii) consult with the operating entity regarding its response to such demand or request and provide a true, correct and complete copy of the response to such demand or request.

(3) Trade data of non-commercial imports and exports of strategic or national importance shall only be shared with authorized government agencies and departments after obtaining prior written approval from such strategic organizations and shall not be publicly disseminated or published or shared with non-governmental entities for any commercial or non-commercial purpose.

(4) The operating entity or any of its associated persons, organizations or entities etc. shall not disclose any of the data held by them that is covered by any international treaty, convention, sovereign obligations, confidentiality agreements etc. without obtaining prior written consent in this regard, from the relevant authorities or owners of the data.

6. **Publication of trade data:** (1) Aggregated, anonymized statistical data regarding cross border trade and transportation may be regularly published on the Government departments websites or publications, PSW's website, Trade Information Portal and other public portals maintained by the operating entity or by Customs and OGAs for their users and general public.

(2) Information so published shall not be in any way disclose information about the personal or business details of any PSW's user or transaction as completed by Customs or OGAs.

(3) The operating entity shall take all measures to ensure that the trade data is periodically updated and that data integrity as well as security standards are adequately maintained.

(4) Subject to these rules, the PSW may make adequate arrangements, whether digital or otherwise, for verification, review and validation of anonymized data to obviate any chances of inadvertent errors, duplication or digital miscalculations etc.

7. **Data dissemination for non-commercial use:** (1) Aggregated and disaggregated trade data not publicly available on PSW websites and various portals may be provided to Customs and OGAs, academics, researchers, think tanks, research institutes and publications, development partners, and other public and private sector entities as authorized by the operating entity for the purposes of academic or market research, policy analysis and development, and other such non-commercial uses subject to such limitations and conditions as specified by the operating entity.

(2) The data recipient shall undertake to ensure that the data obtained from the PSW system under this provision shall not be supplied to or shared with any other third party either free of cost or on payment without express authorization of the operating entity, subject to any other conditions or restrictions as the operating entity may specify.

(3) The data recipient shall undertake to acknowledge and cite PSW as the source of data correctly and appropriately in their respective work utilizing the PSW data whether in digital or print form.

(4) The operating entity shall ensure that data provided to any recipient other than Customs and other entities of federal or provincial government does not in any way disclose information about the personal or business details of any PSW's user or transaction completed by Customs or OGAs.

(5) The operating entity may charge such service charges as may be determined by the Operating Entity keeping in view the quantum and frequency of data provided, resources allocated etc. for retrieval and provision of its data however,

government entities including Customs and OGAs shall be exempt from such charges.

(6) The operating entity shall ensure that trade data sought by entities of Federal or Provincial governments including Customs and OGAs is timely and accurately provided.

(7) The Operating Entity may make adequate digital arrangements for such data recipients who may have periodic or recurrent data requirements.

8. Data dissemination for commercial use: (1) Aggregated and disaggregated trade data subject to such limitations and conditions as specified by the operating entity may be provided to private sector firms or persons etc. as authorized by the operating entity for development of value-added products and services, and other commercial use against a service charge under rule 7(5)-above.

(2) The data recipient shall specify the purpose for which the data is being requested and shall undertake to ensure that the data obtained from the PSW system under this provision shall not be utilized for any other purpose or supplied to any other third party either free of cost or for a consideration without express authorization of the operating entity, subject to any other such conditions as the operating entity may specify.

(3) the operating entity may itself develop or enter into commercial partnerships with public or private sector entities for development of value-added products and services and share disaggregated trade data for testing and development purposes subject to such conditions as may be specified for maintaining of data confidentiality.

(4) The operating entity shall ensure that data provided to any other commercial data recipient with which it has not entered into a partnership agreement, does not in any way disclose information about the personal or business details of any PSW's user or transaction completed by Customs or OGAs.

(5) Dissemination of data by PSW shall in no case affect the ownership or license rights of the operating, entity, Customs, OGAs or any other relevant department, organization, or entity from which the data originated.

(6) The Operating Entity may make adequate digital arrangements or provide access to such data recipients who may have periodic or recurrent data requirements.

9. Data exchange and integration with national and international systems: The operating entity may exchange trade data with national and international organizations including single window operators, foreign governments, and international organizations pursuant to signing of an agreement or MOU on such terms and conditions as the two sides agree with the approval of the PSW Governing Council for trade data exchange and integration.

10. Data Ownership and Protection: (1) All trade related data generated by or collected on the PSW system shall at all times be accessible to and shall remain the property of the Federal Government.

(2) The operating entity shall retain the right to suspend or terminate the provision of trade data dissemination services to any local or foreign non-government entity for reasons of national interest and security.

(3) In line with recommended best practices, the operating entity shall formulate and apply an enterprise data security and sharing policy to govern and monitor the dissemination, transmission, exchange and use of trade data under these rules and to ensure protection of personal data, personal privacy, and the confidentiality of individual records and transactions, and to prevent unauthorized transmission and sharing of information with other entities. The operating entity shall regularly review and update this policy in line with best standards and practices.

(4) The operating entity shall submit a report on quarterly basis to the PSW's Governing Council regarding measures taken to implement the data security policy along with the list of all data recipients that have been provided data for any purpose as specified under these rules.

11. Unauthorized disclosure or transmission of trade data: (1) If there is reason to believe that any data recipient, other than Federal or provincial government authorities, has unauthorizedly disclosed, supplied, or transmitted data to a third party either free of cost or on payment, the operating entity may proceed against the data recipient under the provisions of the Act besides pursuing other remedies as available under other applicable laws rules and regulations:

Provided that any breach of the terms and conditions agreed upon by the parties in any MOU or any other form of agreement including non-payment or short payment of the service charges under rule 7(5) and 8(1), as the case may be, shall be construed as unauthorized access to data in terms of section 2(1)(y) of the Act and shall render the data recipient liable to legal proceedings under the Act.

[C. No. 6(1)PMQ(PSW)/SGC/2021/Pt-I]

MUKARRAM JAH ANSARI,
Additional Secretary.