

Government of Pakistan
Securities and Exchange Commission of Pakistan

NOTIFICATION

Islamabad, the 15th February, 2016

S. R. O. 120 (I)/2016. - In exercise of powers conferred by sub-section (1) of section 169 read with sections 48, 49, 50, 59, 60, 61 and 151 of the Securities Act, 2015 the Securities and Exchange Commission of Pakistan hereby makes the following Regulations, the same being previously published in the official gazette vide S.R.O. 1196(I)/2015 dated 2nd December 2015 and also placed on its website as required under sub-section (4) of section 169 of the said Act, namely:-

CHAPTER I

PRELIMINARY

1. Short title and commencement.- (1) These Regulations shall be called the Central Depositories (Licensing and Operations) Regulations, 2016.

(2) They shall come into force at once.

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

- (a) "Act" means the Securities Act, 2015 (III of 2015);
- (b) "Depositories Act" means the Central Depositories Act, 1997 (XIX of 1997)
- (c) "Ordinance" means the Companies Ordinance, 1984 (XLVII of 1984) ; and
- (d) "senior management officer" for the purposes of these regulations in addition to the persons mentioned in clause (lviii) of section (2) of the Act include the following, by whatever name called:
 - (i) company secretary
 - (ii) chief financial officer
 - (iii) head of internal audit
 - (iv) head of IT, IT security or technology
 - (v) chief risk and compliance officer

(2) Words and expressions used but not defined in these Regulations shall have the same meaning as assigned to them in the Act, the Ordinance, the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997) or the Depositories Act or any rules or regulations made thereunder.

CHAPTER II

LICENSING OF CENTRAL DEPOSITORY

3. Application for grant of license.

(1) Subject to compliance with the requirements of section 48 of the Act and these regulations, an application for grant of license as a central depository shall be submitted to the Commission in **Form A**.

(2) An applicant seeking a license as central depository shall pay an amount of rupees one million as license fee and submit the following documents along-with its application:

- (i) copy of challan evidencing payment of license fee;
- (ii) copies of its memorandum of association and articles of association;
- (iii) proposed regulations under section 51 of the Act; and
- (iv) proposed regulations under section 35 of the Depositories Act.

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

(4) The applicant 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 applicant.

(5) Any subsequent change in the information provided to the Commission at the time of filing of application under sub-regulation (2) and (3) above shall be intimated to the Commission within five working days from the date of such change.

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

4. **Grant of license.** (1) The Commission, while considering the application made under regulation 3, shall *inter-alia* take into account the following matters, -

- (a) that the eligibility requirements of the Act and these regulations have been complied with;
- (b) that the applicant has demonstrated its ability to perform its duties in accordance with the provisions of the Act, the Depositories Act and any rules and regulations made or codes, guidelines, directions and circulars issued thereunder;

- (c) the applicant has shareholding and governance structure as provided in these regulations; and
 - (d) that the applicant has the necessary infrastructure including but not limited to adequate office space, equipment, experienced human resource and technical capabilities, financial resources, policies, procedures, systems and controls to effectively and efficiently discharge its responsibilities as a central depository.
- (2) The Commission may inspect the premises of the applicant to determine whether it fulfills the eligibility criteria and may also require the applicant to submit reports from experts in the manner specified by the Commission to confirm compliance with the Act and these regulations including the existence of adequate infrastructure, technical capacity, financial standing and other requisite benchmarks.
- (3) The Commission, after conducting such inquiries and after obtaining such further information as it deems appropriate, and upon being satisfied.-
- (a) that the applicant is eligible for a licence;
 - (b) its memorandum of association specifically allows it to act as a central depository;
 - (c) the applicant is in compliance with the provisions of the Act and these regulations; and
 - (d) it is in the public and capital market interest;

may grant licence to the applicant in **Form-B** under the sub-section (4) of section 49 of the Act subject to the conditions as provided in regulation 5.

- (4) A central depository shall pay an annual renewal fee of rupees one million.

5. Conditions of licensing,- A central depository shall, in addition to the requirements of the Act, comply with the following conditions on ongoing basis:-

- (a) ensure availability and maintenance of necessary infrastructure for the establishment and operation of book-entry systems for the transfer of securities;
- (b) make adequate arrangements including insurance for indemnifying the beneficial owners for any loss that may be caused to such beneficial owners by the wrongful act, negligence or default of the depository or any of its employees ;
- (c) put in place adequate systems, procedures and necessary capability to have a wide network of CDS elements;
- (d) put in place adequate monitoring, inspection and enforcement mechanism for CDS elements;

- (e) establish and maintain connectivity with the clearing house and CDS elements and have documented business continuity plan;
- (f) ensure data secrecy and have systems for protection against unauthorized access, alteration, destruction, disclosure or dissemination of records and data;
- (g) put in place necessary arrangements, for resolving disputes and redressal of grievances of CDS elements, beneficial owners of securities, customers or any other person;
- (h) comply with the code of corporate governance for listed companies or other requirements as may be specified by the Commission from time to time;
- (i) ensure that its memorandum and articles of association contain no provision inconsistent with the provisions of the Act and these regulations and that no change is made in its memorandum and articles of association except with the prior written approval of the Commission;
- (j) ensure that its directors shall not register the transfer of any of its shares without prior written approval of the Commission;
- (k) shall facilitate access to its depository function by securities exchange, clearing house or other central depository;
- (l) shall not carry on any activity other than that of a central depository unless the activity is incidental to the activity of the central depository:
Provided that a central depository may carry-out such activity not incidental to its activities as a central depository, as may be assigned by the Commission and subject to such conditions as may be imposed.

Provided further that a central depository may carry-out such activity not incidental to its activities as a central depository, by forming subsidiary(ies) subject to the approval of the Commission; and

- (m) any further condition as may be imposed by the Commission from time to time.

CHAPTER III

OBLIGATIONS OF CENTRAL DEPOSITORY

6. Application of fit and proper criteria,- The substantial shareholders, directors and senior management officers of a central depository shall at all times be fit and proper persons as per the criteria specified as Annexure-1.

Provided that in case of substantial shareholders, the requirements of fit and proper criteria shall also be applicable to the directors, sponsors and majority shareholders of such substantial shareholders to the extent as may be practical.

Provided further that, in addition to the relevant/applicable clauses, past track record including the history of regulatory compliance and any disciplinary action taken against such substantial shareholder by the relevant regulatory authority shall also be duly considered.

7. Financial resource requirements,-(1) An applicant seeking license under regulation 4 shall have and maintain at all times, a minimum paid-up capital (net of losses) of rupees four billion and net worth of rupees seven billion.

Provided that an existing central depository shall meet these requirements within the timelines given below commencing from the date of publication of these regulations in the official gazette

Minimum Paid-up Capital	Minimum net-worth	Time period allowed
Rs.1 billion	Rs. 3 billion	Within one year
Rs. 2.5 billion	Rs.5 billion	Within 3 years
Rs. 4 billion	Rs.7 billion	Within 5 years

Explanation: For the purpose of these regulations, net worth shall be calculated as total assets less total liabilities less surplus on revaluation, if any, created upon revaluation of fixed assets.

8. Shareholding requirements,-(1) No person other than the following shall, directly or indirectly, acquire or hold shares of a central depository:

- a. A public financial institution operating as a development finance institution, an insurance company, and a non-banking finance company;
- b. A licensed local or a foreign bank operating in Pakistan;
- c. A licensed securities exchange;
- d. A local or foreign body corporate constituted or recognized for providing custodial, clearing or settlement services in the securities market as may be approved by the Commission;
- e. An institution engaged in providing financial services established outside Pakistan as may be approved by the Commission; or
- f. An institution as may be notified by the Commission from time to time.

Provided that any person other than the above holding shares in an existing central depository shall dispose of its shareholding to an eligible person within a time period of three years from the date of commencement of these regulations.

- (2) Shareholding in a central depository shall be subject to the following limits:
- (a) collective shareholding of securities exchanges, directly or indirectly, shall not exceed forty percent;
 - (b) collective shareholding of persons residing outside Pakistan, directly or indirectly, shall not exceed twenty percent;
 - (c) a single shareholder, other than a securities exchange, directly or indirectly, shall not hold more than fifteen percent shares in a central depository.

Provided that any person holding shares in an existing central depository in excess of the above limits on the date of commencement of these regulations, shall bring its holding in accordance with the above specified limits within a time period of three years from the date of commencement of these regulations.

9. Composition of Board of directors and related matters.- (1) The board of directors of a central depository shall have following categories of directors:

- (a) Independent directors;
- (b) Shareholder directors; and
- (c) Chief executive officer.

Explanation: For the purposes of this clause the term "independent director" means a director who is not connected or does not have any other relationship, whether pecuniary or otherwise, with the applicant, its associated companies, subsidiaries, holding company or directors. The test of independence principally emanates from the fact whether such person can be reasonably perceived as being able to exercise independent business judgment without being subservient to any form of conflict of interest:

Provided that without prejudice to the generality of this explanation no director shall be considered independent if one or more of the following circumstances exist:

- (a) he/she has been an employee of the applicant, any of its subsidiaries or holding company within the last three years;
- (b) he/she is or has been the chief executive officer of subsidiaries, associated company, associated undertaking or holding company in the last three years;
- (c) he/she has, or has had within the last three years, a material business relationship with the applicant either directly, or indirectly as a partner, substantial shareholder or director of a body that has such a relationship with the applicant;
- (d) he/she has received remuneration in the three years preceding his/her appointment as a director or receives additional remuneration, excluding

retirement benefits from the applicant apart from a director's fee or has participated in the applicant's share option or a performance related pay scheme;

- (e) he/she is a close relative of the applicant's promoters, directors or major shareholders:

Explanation: close relative means spouse(s), lineal ascendants and descendants and siblings;

- (f) he/she holds cross-directorships or has significant links with other directors through involvement in other companies or bodies; or

- (g) he/she has served on the board for more than three consecutive terms from the date of his first appointment provided that such person shall be deemed "independent director" after a lapse of one term.

Provided that any person nominated as a director under sections 182 and 183 of the Ordinance shall not be taken to be an "independent director" for the above-mentioned purposes.

Provided further that in case of any ambiguity in determining independence of a person for the purposes of these regulations, the decision of the Commission shall be final and binding upon the central depository.

- (2) The central depository shall have independent directors not less than one third of its total directors.

- (3) An independent director shall be appointed in the following manner:

(a) A central depository shall forward to the Commission the names of persons to be appointed as independent directors. A minimum of two names shall be submitted to the Commission for each vacancy of independent directors for its approval.

(b) The central depository shall ensure that independent directors are selected from diverse field of work with appropriate qualification and experience.

- (4) At least one independent director shall be present in the meeting of board of directors of a central depository to constitute the quorum.

- (5) The chairman of the board of directors of a central depository shall be from amongst the independent directors.

- (6) Every director and senior management officer of a central depository shall abide by the code of conduct to be formulated by the central depository in accordance with the guidelines specified at Annexure II.

- (7) An existing central depository shall ensure compliance with the provisions of this regulation within three months from the date of commencement of these regulations.

10. Appointment of chief executive officer.- (1) The appointment, renewal of appointment and termination of service of the chief executive officer of a central depository shall be subject to prior approval of the Commission.

Explanation: For this purpose removal shall include non-renewal of the contract of chief executive officer.

(2) The board of directors of a central depository shall determine the manner of appointment, terms and conditions of appointment and other procedural formalities associated with the selection/ appointment of the chief executive officer.

(3) A chief executive officer shall be appointed in the following manner:

(a) A central depository shall forward to the Commission names of three persons meeting fit and proper criteria provided in these regulations for selection and approval of one of them as chief executive officer.

(b) The Commission may, if satisfied that the person is suitable for appointment as chief executive officer of the central depository, grant its approval for the appointment of the selected person as chief executive officer of the central depository.

(4) The appointment of the chief executive officer shall be made for a period of three years subject to renewal with prior approval of the Commission.

11. Appointment of compliance officer, - (1) A central depository shall appoint a compliance officer, with prior written approval of the Commission, who shall be responsible for monitoring compliance of the central depository with the applicable legal and regulatory framework.

(2) A compliance officer shall be appointed in the following manner:

(a) A central depository shall forward to the Commission names of three persons meeting fit and proper criteria provided in these regulations for selection and approval of one of them as compliance officer.

(b) The Commission may, if satisfied that the person is suitable for appointment as compliance officer of the central depository, grant its approval for the appointment of the selected person as compliance officer of the central depository.

(3) The compliance officer shall independently report to the board of directors of the central depository any non-compliance of the applicable legal and regulatory framework.

Provided that where a compliance officer is convinced that the matter needs immediate attention of the Commission, it may simultaneously report to the Commission stating the reasons for such simultaneous reporting.

(4) In case no action is taken by the board of directors within a reasonable time period or the compliance officer is of the view that the action taken by the board of directors is insufficient, it shall forthwith report the matter to the Commission.

(5) The compliance officer shall, submit a comprehensive report on quarterly basis to the board of directors regarding matters reported during the respective quarter, the corrective actions taken and their status.

12. Manner of outsourcing of important functions, - (1) A central depository shall not outsource any of its functions without prior written approval of the Commission.

(2) The board of directors of a central depository 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.

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

(4) The central depository shall be fully liable and accountable for the activities that are being outsourced to the same extent as if the service 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 central depository.

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

(6) The central depository desirous of outsourcing their activities shall not, however, outsource their core business activities and compliance functions.

CHAPTER IV

AUDIT AND ACCOUNTS

13. General,- These obligations and duties of central depository under these regulations with respect to audit and accounts are in addition to the requirements of the Ordinance, the rules and regulations made thereunder and any directives issued thereunder.

14. Maintenance of accounting records,- (1) A central depository shall keep accounting and other records which shall sufficiently explain its business and transactions entered into (whether effected on its own behalf or on behalf of participants) and shall be such as to,-

- (a) disclose with accuracy the financial position at that time;
- (b) enable the central depository to prepare financial statements at any time and which comply with requirements of the law;

- (c) demonstrate whether the central depository is maintaining adequate financial resources to meet its business commitments;
 - (d) demonstrate capacity of the central depository with respect to its duties, functions and operations under the Act and these regulation; and
 - (e) demonstrate its preparedness to manage any risk arising out of its duties, functions and operations
- (2) The central depository shall ensure that all requirements with respect to accounting and audit under these regulations are updated in a timely manner.
- (3) The central depository shall ensure that information which is required to be recorded under the Act and these regulations shall be recorded in such a way as to enable a particular transaction to be identified at any time and traced from initiation of the order to final settlement.
- (4) All records required to be maintained under the Act and these regulations shall be arranged, filed, indexed and cross-referenced so as to permit prompt access to any particular record.
- (5) The central depository shall preserve the records required under these regulations for a period of ten years from the date on which they are made and should seek clearance from the Commission before destruction of any of its records.

15. Appointment of auditor and related matters,- (1) A central depository shall ensure that it has appointed an auditor who has inter-alia the powers and duties specified under sub-regulation 3 and , –

- (a) those powers and duties are set out in an engagement letter;
 - (b) the engagement letter is signed by the central depository and the auditor; and
 - (c) the central depository retains a copy of the engagement letter.
- (2) A central depository shall, within seven days, give written notice to the Commission of the appointment, removal or resignation of an auditor.
- (3) The auditor appointed by a central depository shall have a right to, –
- (a) access to its accounting and other records and all other documents relating to its business including the documents required to be maintained under the Act and these regulations; and
 - (b) require from it such information and explanations as the auditor considers necessary for the performance of duties.
- (4) In preparing an auditor report of a central depository, the auditor shall carry out such relevant audit procedures as will enable him to form an opinion as to the matters required to be stated in the audit report.

(5) The auditor's report shall state all the matters as are required to be stated in accordance with the requirements of the Ordinance and additionally must state whether in the opinion of the auditor.

(a) an adequate internal control system commensurate with the size and nature of services performed by the central depository was implemented during the period; and

(b) the compliance function had appropriate resources including the human resource and implemented effective compliance procedures and reporting mechanism which can be reasonably expected to ensure compliance with the applicable laws and detect and report any non-compliance in a timely manner.

(6) Where an auditor resigns or is removed by the central depository, a notice to that effect shall be sent to the Commission containing a statement signed by the auditor to the effect that there are no circumstances connected with his resignation or removal which the auditor considers should be brought to the attention of the Commission.

(7) The central depository shall appoint an auditor with the prior approval of the commission to carry out an audit of its systems every alternate year in accordance with the terms of reference specified in Annexure III.

(8) The commission may appoint an auditor to carry out a special audit of the central depository, including a regulatory compliance audit, at the expense of the central depository, in accordance with the terms of reference as specified in Annexure IV. The audit shall be carried out for such period as the Commission may direct at the time of appointing the auditor.

16. Submission of annual report,-(1) A central depository shall submit an annual report to the Commission within three months of the close of financial year, inter alia, containing the following information in addition to the requirements of section 61 of the Act;

(a) audited financial statements containing information as required under the Act and these regulations;

(b) report of directors to shareholders;

(c) statement of compliance with the code of corporate governance;

(d) month-wise transaction volume and value;

(e) total number of participants, eligible securities and other elements along-with information with respect to addition or deletion during the period;

(f) summary of assets held under custody by the participants with the central depository;

(g) names and brief profiles of members of board of directors and senior management officers;

(h) details of disciplinary actions taken, fines and penalties imposed and recovered;

(i) pattern of shareholding, giving names of persons holding more than 10% shares and all changes in the shareholding above 10%; and

- (j) any other information that may be deemed material by the central depository for disclosure in the annual report.

17. Submission of information and returns,-(1) The central depository, with approval of its board of directors, shall submit to the Commission, within one month of the close of its financial year, a yearly performance report of the central depository against the approved targets and plans, highlighting in particular performance of the board of directors, chief executive officer and compliance officer of the central depository.

(2) The Commission may by written notice require a central depository to submit to it such periodic returns as it may direct.

(3) In addition to any periodic returns required under sub-regulation (1), the Commission may by written notice require a central depository, either generally or in a particular case or class of case, to submit to it such exceptional returns as it may direct.

APPLICATION FOR GRANT OF LICENSE AS A CENTRAL DEPOSITORY UNDER REGULATION 4

The Securities and Exchange Commission of Pakistan
Islamabad

**Subject: Application for grant of license under regulation 4 of the Central Depositories
(Licensing and Operations) Regulations, 2016**

Dear Sir,

We/I on behalf of (name and address of applicant) hereby apply for grant of license as central depository for the purposes of the Securities Act, 2015 and the Central Depositories (Licensing and Operations) Regulations, 2016.

All the necessary information required under the laws is enclosed. Any additional information will be furnished as and when called for by the Commission.

We/I, on behalf of the applicant, hereby undertake to comply with the requirements of the laws and such other conditions and terms as may be communicated while granting the license or imposed subsequently.

Bank Challan No.....dated.....evidencing payment of license fee of rupees one million and collection charges into the designated bank account of the Securities and Exchange Commission of Pakistan is also enclosed

Yours sincerely,

Authorised signatory

THE SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

License of a Central Depository under section 49 of the Securities Act, 2015

The Securities and Exchange Commission of Pakistan, having considered the application for grant of license under regulation 4 of the Central depositories (Licensing and Operations) Regulations, 2016 by..... (name and address of central depository) and being satisfied that it would be in the interest of the securities market and also in the public interest so to do, hereby grants license, in exercise of the powers conferred by section 49 of the Securities Act, 2015, to the said central depository on the day of 20.... subject to the such conditions as stated in the attached letter or as may be imposed hereafter.

Seal of the Commission
Islamabad

Signature of Officer

**FIT AND PROPER CRITERIA FOR SUBSTANTIAL SHAREHOLDERS, DIRECTORS AND SENIOR
MANAGEMENT OFFICERS OF A CENTRAL DEPOSITORY**

APPLICATION AND SCOPE

This Fit and Proper Criteria is perpetual in nature and its compliance is mandatory.

All persons subject to Fit and Proper Criteria must submit any change in the submitted information through the company secretary of the central depository to the Commission.

In addition to the substantial shareholders of the applicant, eligibility of any person desiring to act as director on the board of directors or senior management officers of a central depository shall be judged on the basis of following criteria, which in the case of directors, shall be in addition to meeting requirements of the Ordinance relating to eligibility of a director:

(a) The Financial Status or Solvency

- (i) The person should not have been adjudged as an insolvent or he should not have suspended payment of debts or compounded liabilities with his creditors.
- (ii) The person should not have been convicted by a court of competent jurisdiction as a defaulter in payment of any loan to a financial institution including banking company, a Development Financial Institution or an Non- Banking Financial Company.
- (iii) The person, in his individual capacity or as director of a company, has not been in default of payment of dues owed to any investor, financial institution, or securities exchange, commodity exchange, clearing house, central depository and / or defaulted in payment of any taxes in the individual capacity or as a proprietary concern or any partnership firm or as director in any private unlisted and listed company.
- (iv) The person should not have been a director and/or chief executive of any company or body corporate which has defaulted in payment of Government duties/taxes/cess or has misused customer/investor assets.
- (v) The person should be a tax payer and his name should be borne on the Active Tax Payers List regularly published by FBR.

(b) Educational Qualification and Experience

(i) In case of director, the person should:

- a) be a member of a recognized body of professional accountants or possess a graduate degree in finance, accountancy, law, business management, commerce, economics,

capital market, information technology and financial services or related disciplines from a university recognized by the Higher Education Commission of Pakistan, or equivalent; and

- b) have a management or business experience including directorships, of at least seven years at a senior level preferably in the regulated financial services sector and other fields such as law, information technology etc.

Provided that where a person possesses more than 15 years of experience and knowledge of the capital markets, central depositories, commodities market, or in the areas relating to finance, corporate governance, audit, information technology etc. the minimum qualification requirement may be relaxed on case to case basis by the central depository, with prior approval of the Commission.

Provided further that in case of independent director, such relaxation may be granted only by the Commission.

(ii) In case of chief executive officer, the person should:

- a) be a member of a recognized body of professional accountants or possess a post-graduate degree in finance, accountancy, business management, commerce, economics, capital market and financial services or other related disciplines from a university recognized by the Higher Education Commission of Pakistan, or equivalent; and
- b) have a minimum experience of seven years in a senior management position at the central depository or has served at a position equivalent to chief executive officer for a period of five years in any other company preferably in the regulated financial services sector; and
- c) have demonstrated, through his qualification and experience, the capacity to successfully undertake the cognate responsibilities of the position.

(iii) In case of chief operating officer, the person should:

- a) be a member of a recognized body of professional accountants or possess a post-graduate degree in finance, accountancy, business management, commerce, economics, capital market and financial services or other related disciplines from a university recognized by the Higher Education Commission of Pakistan, or equivalent; and
- b) have a minimum experience of seven years in a senior management position at the central depository or has served at a position equivalent to chief operating officer for a period of five years, in any other company preferably in the regulated financial services sector; and
- c) have demonstrated, through his qualification and experience, the capacity to successfully undertake the cognate responsibilities of the position.

(iv) In case of chief financial officer, the person should:

- a) be a member of a recognized body of professional accountants or possess a postgraduate degree in finance, accountancy, business management, commerce, economics, capital market and financial services or related disciplines from a university recognized by the Higher Education Commission of Pakistan, or equivalent; and
- b) have preferably served as chief financial officer for a period of three years in any other company; or have:
 - i) a minimum experience of five years in related functions at the central depository; or
 - ii) served as head of finance, audit, compliance or other corporate functions for a period of four years in any other company.

(v) In case of chief risk officer and head of internal audit, the person should:

- a) be a member of a recognized body of professional accountants, or a Certified Internal Auditor, or a Certified Fraud Examiner; and
- b) have preferably served as chief risk officer and/or head of internal audit for a period of three years in any other company; or have:
 - i) a minimum experience of five years in related functions at the central depository; or
 - ii) served as head of finance, audit, compliance or other corporate functions for a period of four years in any other company.

(vi) In case of company secretary and compliance officer, the person should:

- a) be a member of a recognized body of professional accountants or a recognized body of corporate or chartered secretaries; or be a law graduate or possess a post-graduate degree in finance, accountancy, business management, commerce, economics, capital market and financial services or related disciplines from a university recognized by the Higher Education Commission of Pakistan, or equivalent; and
- b) have preferably served as company secretary and/or compliance officer for a period of three years in any other company; or have:
 - i) a minimum experience of five years in related functions at the central depository; or
 - ii) served as head of finance, audit, compliance or other corporate functions for a period of four years in any other company.

(vii) In case of head of IT, IT security or technology, the person should:

- a) possess a post-graduate degree in information technology or computer sciences or related disciplines from a university recognized by the Higher Education Commission of Pakistan, or equivalent; and
- b) have a minimum relevant experience of five years in IT related functions at the central depository or has served as head of IT related services for a period of three years in any

other company.

Provided that upon request of a central depository supported by cogent reasons, the Commission may consider allowing continuation of service of an existing senior management officer who does not fulfil the requirements prescribed above, on a case to case basis.

(viii) In case of substantial shareholders of the central depository, such person should have an established and proven track record of successfully running a business enterprise for 3 to 5 years.

(ix) The person must be fully conversant with the duties of director or senior management officer, as the case may be, as specified under the statutes, rules and regulations, memorandum and articles of association and the code of corporate governance.

(c) Competency

(i) Membership, license or registration of the person or any company in which he was a director during the last five years has not been suspended/ cancelled by the Commission, any other regulatory authority, any professional body, association or relevant entity.

Provided that eligibility of a person may be considered on the basis of prior clearance obtained from any such organization that suspended/ cancelled the membership, license or registration.

(ii) The person should not be disqualified/ removed from the post of a key executive position of a company by the Commission or any other regulatory authority.

(d) Integrity, Honesty and Reputation

(i) The person should not have been convicted in any criminal offence or directly involved in any settlement in civil/ criminal proceedings in a court of law, particularly with regard to moral turpitude, investments, financial/business misconduct, fraud/ forgery, breach of trust, financial crime etc. and/ or it has not been concluded by any regulatory authority that he has been associated with any unauthorized financial activity including illegal brokerage business.

(ii) No investigation/ enquiry, conducted under Section 139 of the Securities Act, 2015, Section 29 of the Securities and Exchange Commission of Pakistan Act, 1997, Section 21 of the Securities and Exchange Ordinance, 1969, Section 263 or Section 265 of the Ordinance, has been concluded against him by the Commission with adverse findings.

(iii) An order restraining, prohibiting or debarring him from dealing in the securities market or from accessing the capital market has not been passed; or penalty of Rs.500,000/- or more has not been imposed on him by the Commission in the last three years, in respect of any laws administered by the Commission.

Provided that a person may be considered eligible in case a period of at least three years from the date of expiry of the period specified in the order for which such person has been restrained/ prohibited/ debarred has elapsed.

(iv) The person should not have provided false or misleading information either to the Commission or to any of the regulatory body, securities exchange, central depository or a clearing house.

(v) The person should not have been actively involved in the management of a company whose registration or license has been revoked or cancelled or which has gone into liquidation or other

similar proceedings due to financial irregularities or malpractices;

(vi) The person must not be ineligible, under the Ordinance or any other legislation from acting as a director; or

(vii) The person should not have entered into a plea bargain arrangement with the National Accountability Bureau.

(e) Additional Criteria for Independent Directors

(i) He has no relationship with the central depository that would interfere with him exercising independent professional judgment as a director and he can be reasonably perceived as being able to exercise independent business judgment without being subservient to any apparent form of interference.

(ii) The person should not be a TRE certificate holder of any securities exchange in Pakistan or a director, officer, sponsor or direct shareholder of any TRE certificate holder of a securities exchange or any of holding or subsidiary company of such TRE certificate holder.

(iii) The person's immediate family member is also not a TRE certificate holder or director, officer or sponsor of any TRE certificate holder of any securities exchange in Pakistan and/ or the combined shareholding of the immediate family members in any brokerage house does not exceed twenty percent.

(iv) It shall be mandatory to disclose any holding in a listed security in such person's name or in the name of his immediate family member or in the name of an entity being managed or controlled by him or his immediate family member, or any change in such holding, to the central depository and the Commission;

- a. at the time of submission of initial information ; and
- b. On quarterly basis for the respective period,
for placement of the same on the website of central depository for public disclosure.

(v). The person shall have no personal services contract(s) and shall not be currently serving as an employee and has not been employed at any position of the central depository within the past two years.

(vi). The person shall not simultaneously be serving as a director on the board of more than

seven listed companies.

EXPLANATION: Immediate family member wherever referred in these criteria means spouse, children and parents.

Note:

- All directors must inform the central depository of any change in the submitted information that may potentially affect their status of directorship, within 48 hours of knowledge of such change.
- In case of any ambiguity in determination of fitness and propriety of a person in terms of this criteria, the decision of the Commission shall be final and binding upon the central depository.
- Any person desiring to act as director on the board of directors or appointed as senior management officer of the central depository shall submit duly filled attached form and undertaking given below:

Form for Information to be provided by Persons Desiring Prospective Directorship on the Board or a senior management office of a central depository

1.	Curriculum Vitae/Resume containing:												
(a)	Name:												
(b)	Father's or Husband Name:												
(c)	C.N.I.C # (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:												
	ii) Professional:												
(k)	Experience: (Positions held during the last 10 years along with name and address of company/ institution) Information to be provided on the following sample format*:												
	<table border="1"> <thead> <tr> <th>Sr #</th> <th>Name of Organization</th> <th>Designation</th> <th>Period</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Company A</td> <td></td> <td>dd/mm/yy - dd/mm/yy</td> </tr> <tr> <td>2</td> <td>Company B</td> <td></td> <td>dd/mm/yy - dd/mm/yy</td> </tr> </tbody> </table>	Sr #	Name of Organization	Designation	Period	1	Company A		dd/mm/yy - dd/mm/yy	2	Company B		dd/mm/yy - dd/mm/yy
Sr #	Name of Organization	Designation	Period										
1	Company A		dd/mm/yy - dd/mm/yy										
2	Company B		dd/mm/yy - dd/mm/yy										
2.	<p>In case of proposed director,</p> <p>1. Nature of directorship: Executive Non-executive</p> <p>2. Status of directorship: Independent director Shareholder director</p> <p>*</p> <p>Number of shares subscribed or held _____</p> <p>Nominated by (name of shareholder)</p>												

3.	<p>In case of proposed director, Names of companies, firms and other organizations of which the proposed person is presently a director, partner, office holder or major shareholder (Information to be provided on the following sample format*)</p> <table border="1" data-bbox="357 309 1198 568"> <thead> <tr> <th data-bbox="357 309 443 421">S r #</th> <th data-bbox="443 309 679 421">Name of Organization</th> <th data-bbox="679 309 898 421">Designation</th> <th data-bbox="898 309 1198 421">Period</th> </tr> </thead> <tbody> <tr> <td data-bbox="357 421 443 495">1</td> <td data-bbox="443 421 679 495">Company A</td> <td data-bbox="679 421 898 495"></td> <td data-bbox="898 421 1198 495">dd/mm/yy - dd/mm/yy</td> </tr> <tr> <td data-bbox="357 495 443 568">2</td> <td data-bbox="443 495 679 568">Company B</td> <td data-bbox="679 495 898 568"></td> <td data-bbox="898 495 1198 568">dd/mm/yy - dd/mm/yy</td> </tr> </tbody> </table>	S r #	Name of Organization	Designation	Period	1	Company A		dd/mm/yy - dd/mm/yy	2	Company B		dd/mm/yy - dd/mm/yy
S r #	Name of Organization	Designation	Period										
1	Company A		dd/mm/yy - dd/mm/yy										
2	Company B		dd/mm/yy - dd/mm/yy										
4.	<p>In the case of nomination of director by a corporate member the date of board of directors' meeting in which the nomination of proposed director was approved. (Attach copy of the minutes of the meeting of the board of directors.)</p>												
5.	<p>Names of any persons on the board of the central depository who are related to the applicant.</p>												

Signature _____

*use additional sheets if required

**Affidavit to be provided by Persons Desiring Prospective Directorship on the Board of the
central depository or a senior management office of a central depository**
(On Stamp Paper of Appropriate Value)

AFFIDAVIT
(name of central depository)

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 director/senior management officer according to the Fit and Proper Criteria specified for the position of directors/senior management officers of a central depository, as per the Central Depositories (Licensing and Operations) Regulations 2016.
2. That I hereby confirm that the statements made and the information given by me are correct and that there are no facts which have been concealed.
3. That I have no objection if the central depository or the Commission requests or obtains information about me from any third party.
4. That I undertake to bring to the attention of the central depository any matter which may potentially affect my status for the position of director/senior management officer as per the fit and proper criteria specified in the Central Depositories (Licensing and Operations) Regulations 2016.
5. That all the documents provided to the central depository, 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

**GUIDELINES FOR FORMULATION OF CODE OF CONDUCT FOR DIRECTORS AND SENIOR
MANAGEMENT OFFICERS OF A CENTRAL DEPOSITORY**

While formulating the code of conduct as required under the code of corporate governance, the board of directors of the central depository shall ensure that at-least the following areas are covered and duties and responsibilities of directors and senior management officers are accordingly defined in the said code of conduct:

1. Duties and Responsibilities of Directors and Senior Management Officers:

Every director and senior management officer shall:

- a) participate in the formulation and execution of strategies in the best interest of the central depository and contribute towards pro-active decision making;
- b) give benefit of their experience and expertise to the central depository and provide assistance in strategic planning and execution of decisions;
- c) endeavor to ensure that the central depository abides by all the provisions of the Act, the Ordinance, the Depositories Act, these regulations and other applicable rules, regulations, codes, guidelines, circulars and directions issued by the Commission from time to time;
- d) endeavor to ensure that the central depository takes steps commensurate to honor the time limit stipulated by the Commission for corrective action;
- e) not support any decision in the meeting of the board which may adversely affect the interest of investors and shall report forthwith any such decision to the Commission;
- f) place priority for redressing investor grievances and encouraging fair business practice so that the central depository becomes an engine for the growth of the securities market;
- g) endeavor to analyze and administer the central depository issues with professional competence, fairness, impartiality, efficiency and effectiveness;
- h) submit the necessary disclosures/statement of holdings/ dealings in securities as required by the central depository or the Commission from time to time as per their regulations or Articles of Association or any directives of the Commission;
- i) unless otherwise required by law, maintain confidentiality and shall not divulge/disclose any information obtained in the discharge of their duty and no such information shall be used for personal gains;

- j) maintain the highest standards of personal integrity, truthfulness, honesty and fortitude in discharge of their duties in order to inspire public confidence and shall not engage in acts discreditable to their responsibilities;
- k) perform their duties in an independent and objective manner and avoid activities that may impair, or may appear to impair, their independence or objectivity or official duties;
- l) not engage in any act involving moral turpitude, dishonesty, fraud, deceit, or misrepresentation or any other act prejudicial to the administration of the central depository
- m) not disclose confidential information, including commercial secrets, technologies, advertising and sales promotion plans, unpublished price sensitive information, unless such disclosure is expressly approved by the board of directors or required by law;

2. Meetings of the Board

Every Director of the central depository shall -

- a) endeavor to ensure that in case all the items of the agenda of a meeting were not covered for want of time, the next meeting is held within reasonable timeframe as the board of directors may determine for considering the remaining items; and
- b) endeavor to have the date of next meeting fixed at each board meeting in consultation with other members of the board.

3. Guidelines for conduct of independent directors

- a) In addition to the conditions stated above, independent directors shall endeavor to attend all the board meetings and they shall be liable to vacate office if they do not attend fifty percent of the total meetings of the board of directors in a calendar year.
- b) Independent directors shall endeavor to meet separately, at least once in six months to review the critical issues of the central depository.

Further, the independent directors shall:

- c) participate constructively and actively in the committees of the board in which they are chairpersons or members;
- d) strive to attend the general meetings of the central depository;
- e) where they have concerns about the running of the central depository or a proposed action, ensure that these are addressed by the board and, to the extent that they are not resolved, insist that their concerns are recorded in the minutes of the board meeting;

- f) keep themselves well informed about the affairs and matters of the central depository and the external environment in which it operates;
- g) pay sufficient attention and ensure that adequate deliberations are held before approving related party transactions and assure themselves that the same are in the interest of the central depository;
- h) ascertain and ensure that the central depository has an adequate and functional grievance resolution mechanism and to ensure that the interests of a person who uses such mechanism are not prejudicially affected on account of such use;
- i) report concerns about unethical behavior, actual or suspected fraud or violation of the code of conduct of the central depository; and
- j) acting within its authority, assist in protecting the legitimate interests of the central depository, shareholders and its employees.

**TERMS OF REFERENCE OF SYSTEM AUDIT OF CENTRAL DEPOSITORY UNDER
REGULATION 15(7)**

A central depository shall require an independent auditor to conduct audit of its system on every alternate year in accordance with any or all of the following:

- (1) reviewing the information processing facilities of the central depository and the integrity of its central depository systems including:
 - (a) maintenance of security and confidentiality over the data of the CDS Elements;
 - (b) security over the physical operation of the central depository systems;
 - (c) backup and disaster control and recovery procedures for central depository systems; and
 - (d) access controls for central depository systems; and
- (2) assessing the integrity and accuracy of information generated by the central depository systems including, without limitation:
 - (a) internal controls over data input by the central depository; and
 - (b) processing and reporting of transaction data.
- (3) performing any other function or conducting audit of any other area as may be assigned by the Commission or central depository at the time of appointment of such auditor.

**TERMS OF REFERENCE (TORs) FOR THE SPECIAL AUDIT OR REGULATORY COMPLIANCE AUDIT
OF A CENTRAL DEPOSITORY**

The TORs for the special audit or regulatory compliance audit of a central depository may include all or any of the following procedures as may be specified by the Commission at the time of appointment of special auditor and any additional procedures that Commission may direct:

1. ensure compliance with the relevant regulatory framework, including but not limited to:
 - (a) Securities Act, 2015;
 - (b) Central Depositories Act, 1997;
 - (c) The Companies Ordinance, 1984;
 - (d) Central Depository (Licensing and Operations) Regulations, 2016;
 - (e) The regulations of the central depository as approved by the Commission under the Central Depositories Act, 2015 and/or the Securities Act, 2015;
 - (f) The policies, procedures, directives, guidelines, circulars issued/approved by the Commission or the board of directors of a central depository.
 2. ensure compliance with the Memorandum of Association and Articles of Association of the central depository;
 3. ensure existence of and compliance with Standard Operating Procedures relating to all major operational processes;
 4. ensure that policies and procedures are formulated to identify and prevent conflict of interest of directors with the interest of capital market, investors and central depository and are complied with;
 5. ensure that central depository system and related functionalities operate in compliance with the requirements of approved regulations and procedures of the central depository;
 6. identify the roles and responsibilities of the commission, the securities exchange(s), clearing house and central depository as per applicable regulatory framework and also evaluate the extent to which the respective roles and responsibilities overlap and require clear demarcation. Based on this, also prepare matrix outlining roles and responsibilities where two or more institutions are involved; and
 7. evaluate any other aspect of central depository functions that may be required by the Commission.
-

Bushra
15/2/16

(Bushra Aslam)
Secretary to the Commission