

Circular No.: PMEX/MKT, BD&CSS/2020/23

April 13, 2020

Paper on Review and Amalgamation of Securities Act, 2015 and Futures Market Act, 2016

All market participants are hereby informed that the Securities and Exchange Commission of Pakistan (SECP) has prepared a "Paper on Review and Amalgamation of Securities Act, 2015 and Futures Market Act, 2016" which is attached herewith as Annexure "A".

The market participants are hereby requested to submit their proposals to the SECP, under intimation to the PMEX, within 30 days of the date of this circular at Securities and Exchange Commission of Pakistan, NICL Building, 63 Jinnah Avenue, Islamabad.

For further information and assistance, please feel free to contact our Customer Support Services by phone on 021-111-11-7639 (PMEX), or by email at support@pmex.com.pk.

Best Regards,



Syed Mumtaz Ali
Chief Regulatory Officer

Encl.: As stated above.

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Paper on review and amalgamation of Securities Act, 2015 and Futures Market Act, 2016

Background of Securities Act, 2015 (III of 2015)

Securities Act, 2015-Act No. III of 2015 (SA) was promulgated on May 18, 2015. As a result of introduction of SA, many sections of the Securities and Exchange Ordinance, 1969 (SEO), the whole Listed Companies (Substantial Acquisition of Voting Shares and Take-Overs) Ordinance 2002 (the Takeover Ordinance) and some sections of the Companies Ordinance, 1984 (CO) were repealed.

As a result, the SA became the comprehensive statute and primary law for the capital market/ securities industry, thereby consolidating the legal provisions related to primary and secondary capital market, which were previously scattered in different laws. Further, the SA fulfilled the need to upgrade the requirements previously contained in the SEO and to achieve the objectives of a modern and updated legal framework in line with international practices, keeping abreast of new trends and responding to legal and regulatory challenges encountered over time.

The SA provides legal framework for:

- licensing and conduct of securities exchange,
- licensing and conduct of clearing houses,
- licensing and conduct of central depository companies,
- licensing and conduct of regulated persons/ market intermediaries,
- customer assets,
- public offer of securities, prospectus
- trading by directors and substantial shareholders in listed company etc
- listing of securities
- Takeovers,
- insider trading and other market abuses,
- supervision and investigation
- disciplinary action etc.

Background of Futures Market Act, 2016-(XIV of 2016)

Futures Market Act, 2016 (FMA) was promulgated on April 13, 2016. The FMA provided the primary law for the regulation of futures market which includes futures based on securities, commodities and financial instruments.

As a result of promulgation of FMA, the complete SEO was repealed and the transition from SEO to new capital market law was complete.

The FMA provided the primary law for:

- licensing and conduct of futures exchange,
- licensing and conduct of futures clearing house,
- licensing and conduct of regulated persons/ market intermediaries,
- insider trading and othermarket abuses,
- supervision and investigation,
- disciplinary provisions etc.

The FMA provided the framework for trading of futures contracts including the licensing of related market infrastructure institutions and intermediaries.

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The objectives of proposed amalgamation of SA and FMA

The promulgation of SA and FMA resulted in two separate primary laws for securities and futures contracts. These statutes also require that regulations should be made for providing detailed provisions relating to licensing, conduct and other ancillary matters. Consequently regulations have been made under the two laws in respect of matters required to be specified under the SA and FMA. It is also worth noting that majority provisions of FMA are similar to SA.

As a result, market infrastructure institutions such as exchanges and clearing houses which provided platforms for trading and clearing of securities and related derivatives needed to be licensed under both SA and FMA and their standards of conduct are governed under both laws. Similarly, the intermediaries which provided services related to securities and derivatives (brokers, advisers etc) were also required to be licensed under both laws and their activities were subject to provisions of SA/FMA and the regulations made under these laws.

As evident, two separate laws for securities and futures has resulted in overlaps and duplication of efforts and resources. It has also compromised the key objective of providing one comprehensive law for the capital markets. There is no substantial value addition or benefits from having two separate laws for inter-related activities. Consequently it is envisaged that SA and FMA should be merged to provide a single comprehensive primary law for the capital markets.

Improvements/ removal of onerous provisions in the SA:

As mentioned above, SA is a detailed law which seeks to provide comprehensive framework for the primary and secondary market and consolidates provisions which were previously contained in the other legal frameworks. Subsequent to the promulgation of SA five years back, there is a need to holistically review the Act in order to:

- Remove practical difficulties identified as a result of practical application of new law and as identified by the market participants
- Provide ease of doing business by removing onerous provisions and curtailing over-regulation
- Remove provisions which are overly prescriptive or of a procedural nature and making the same part of the subsidiary legislation in order to ensure flexibility and timeliness
- Update the law to keep abreast of new trends, concepts and effects of advent in technology and encourage innovation
- Ensure sufficient degree of empowerment to SECP for effectively discharging its functions
- Review of SEO to bring any gaps with the SA and include any beneficial and suitable provisions in the revised SA
- Strengthen the enforcement powers of SECP and allow it to deal with market malpractices such as insider trading, cyber crime, digital criminology in efficient manner

Feedback from stakeholders:

In order to make the exercise meaningful and comprehensive, comments and feedback may be solicited from stakeholders during the process of drafting the proposed amendments.

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