

Annexure “A”

Terms of Reference

Regulatory Affairs Committee

PAKISTAN MERCANTILE EXCHANGE LIMITED

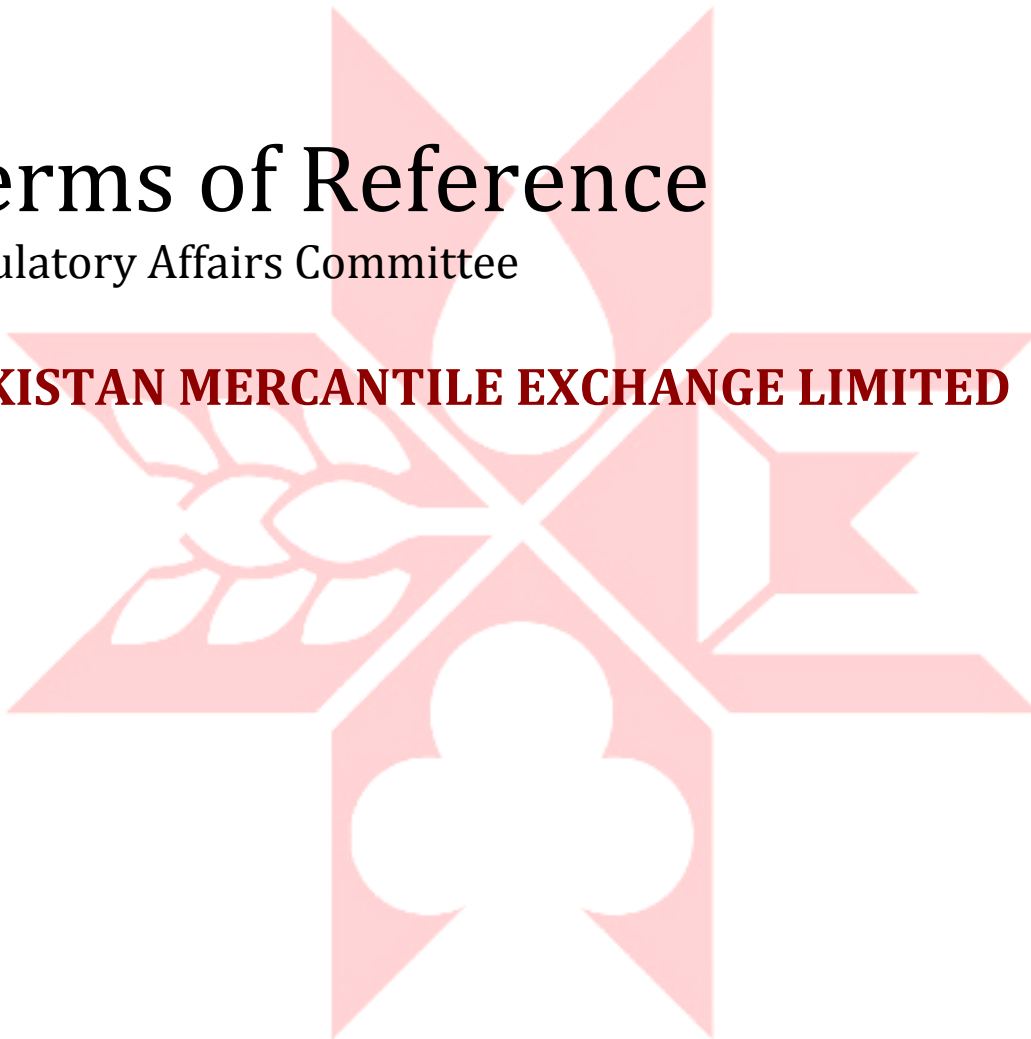


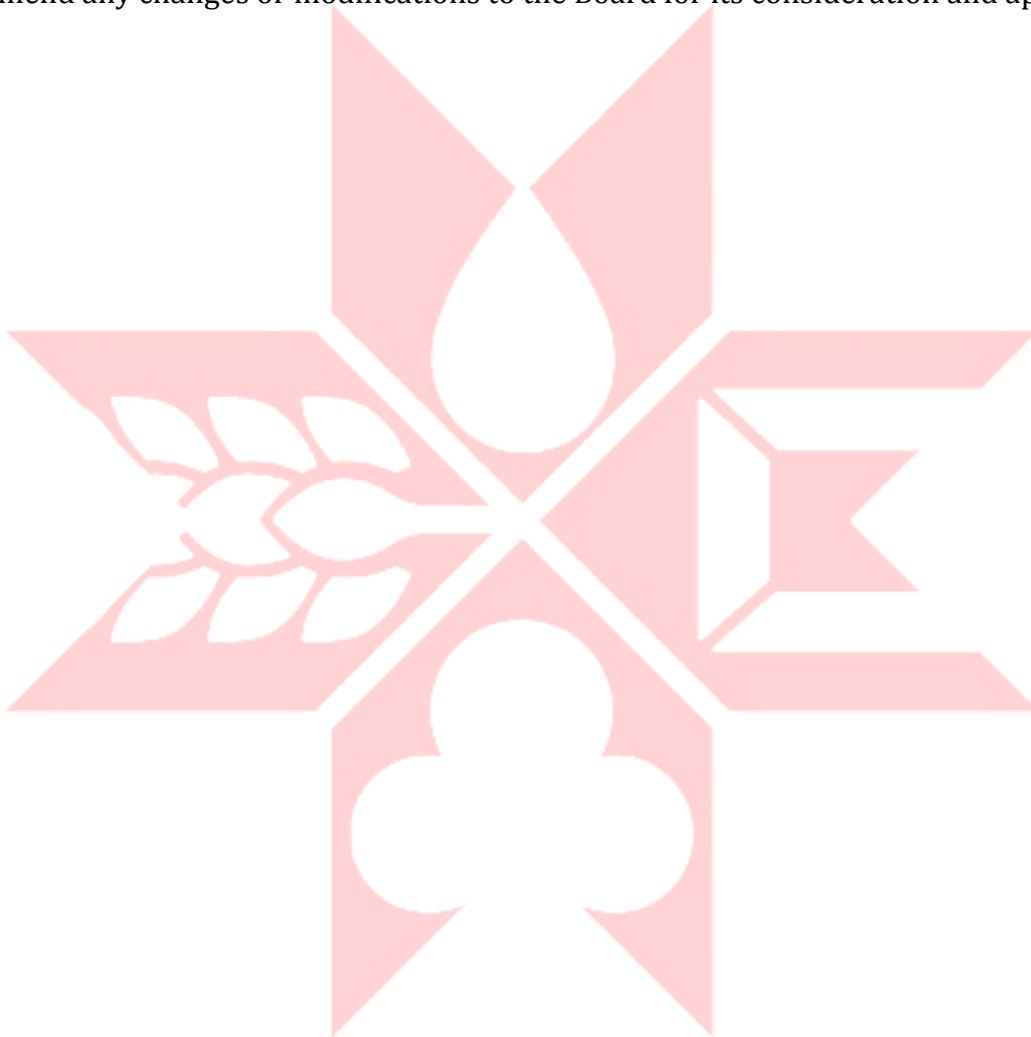
Table of Contents

- Introduction
- Regulatory Affairs Committee (RAC)
- Chief Compliance Officer (CCO)
- Legal and Compliance Department (LCD)
- Divisions of LCD
 - Legal Risk management and due diligence
 - Enforcement and Compliance
 - Surveillance, Monitoring and Regulatory Risk Management
 - Membership Affairs
 - Investor complaints & Arbitration
 - Regulatory Trading Compliance
 - Regulatory Product Development Compliance Management
 - Inquiries and Investigation
 - Compliance of Anti Money Laundering & Anti- Terrorist Financing Requirements

➤ **Introduction**

These Terms of Reference (TOR) of Regulatory Affairs Committee (RAC) of Pakistan Mercantile Exchange Limited (PMEX) have been drawn for Segregation of Commercial and Regulatory Functions of PMEX.

The RAC shall review and re-assess these TOR as and when deemed necessary and recommend any changes or modifications to the Board for its consideration and approval.



Regulatory Affairs Committee (RAC)

The establishment of regulatory arena is to ensure clear segregation of commercial and regulatory functions of Pakistan Mercantile Exchange which include constitution of a Regulatory Affairs Committee (RAC) and the same will function as a 'Chinese Wall' for effectively segregating the aforesaid functions.

Objective

The core objective to form RAC includes but not limited to:

- Segregate commercial and regulatory functions of PMEX.
- Ensure efficient functioning of Legal and Compliance Department (LCD) to implement an effective regulatory regime and improve investors' confidence and market integrity.
- Assist the Board of Directors in discharging their functions, duties and responsibilities relating to the regulatory affairs of PMEX.
- Pre-emption of risk and its resolution.

Structure of RAC

- The RAC shall consist of 5 or more directors including Managing Director of PMEX.
- The RAC shall be chaired by the independent director.

Meetings and Proceedings

- The RAC meetings shall be conducted as and when required by the Managing Director however, it shall meet at least once in a quarter to review the regulatory functions.
- The minutes and attendance record of the RAC meetings, once confirmed in the next RAC meeting, shall be submitted to the BOD within fourteen days of its confirmation.
- The RAC shall directly report to the Board.

Quorum

- Quorum of RAC shall be completed when three or more members are present in the meeting.

Terms of Reference – Regulatory Affairs Committee

- No business shall be transacted unless a quorum of members is present at the time when the meeting proceeds to business.
- In emergent situations where member(s) of RAC are not available in Pakistan, such member(s) can attend the meeting through tele/video conferencing subject to fulfillment of requisite quorum or via circular resolution. .

Responsibilities of RAC

- Ensure effective functioning of the Legal and Compliance Department (LCD) on regulatory issues and take measures to implement an effective regulatory regime.
- Develop a comprehensive corporate compliance policy of the Exchange or other policies as may be required from time to time.
- Develop an overall regulatory plan and roles and responsibilities of each division of LCD together with a road map for effective regulatory role, for the approval of the Board.
- Continuously ensure adequacy and effectiveness of the regulatory plan and approve annual plans/targets for the LCD.
- Consider and recommend all regulatory amendments for approval of the Board.
- Consider and recommend framing new regulations for approval of the Board.
- Assess performance of the LCD in the light of regulatory program and take measures and where necessary make recommendations to the Board for improvement.
- Identify and manage potential conflicts of interest in commercial and regulatory functions regularly.
- Train/educate LCD personnel in respect of conflict management and develop the manual on conflict management policy and circulate to all employees of LCD.
- Prepare a summarized annual report of the LCD on the activities, conclusions, recommendations of the last year with special focus on the identification and mitigation of conflicts of interest and identify the targets for next year along with any other matters, for the Board for inclusion in the annual report/financial statements.
- To ensure product development compliance management for registration of new products, enforcement of product notes of registered Commodity Futures Contracts in compliance with regulatory requirements.

Terms of Reference – Regulatory Affairs Committee

- Carry out any other function that may be mutually agreed upon by the RAC and the Board.
- Establish criteria for evaluating candidates for the senior management of LCD including CCO.

Chief Compliance Officer (CCO)

- The CCO shall be the head of the Legal and Compliance Department and shall oversee the efficient functioning of the LCD under supervisory role of Managing Director.
- The CCO shall report directly to the Managing Director.
- The CCO must not be a connected person with the Brokers and the strategic investor(s), or any financial institution holding any shares of the PMEX.
- CCO shall be a dedicated position and CCO must not have any other responsibility in the Exchange except the regulatory role.
- CCO shall also liaise between the Exchange and SECP on regulatory affairs by discussing the issues with Managing Director and getting his endorsement.
- CCO subject to authorization by Managing Director shall be the authorized representative of the Exchange in respect of all outside investigations, law enforcement, prosecution agencies and courts of law etc. CCO may also authorize any person from within the LCD for any of the aforesaid purposes under intimation and approval of Managing Director.
- Compensation arrangement of the CCO shall be determined against the measurable criteria and will not be linked with the number of violations detected or the amount of fine recovered from the market participants.
- CCO shall enforce and implement the decisions of RAC through respective departmental heads.
- CCO shall review the compliance status, highlight the deficiencies to the management for adopting corrective measures and report the same to the Managing Director.
- CCO shall ensure capacity building for legal risk management and due diligence.
- CCO shall not engage in trading activities in registered futures contracts.
- Unless otherwise required or on his own motion to ensure compliance, CCO shall not engage in any PMEX investment and Commercial related matters.

Legal and Compliance Department (LCD)

The LCD shall perform following functions through different divisions. The RAC may consolidate or re-allocate different tasks to divisions according to its administrative requirements:

Legal Risk Management & due diligence

- Drafting legal agreements, contracts, Memorandums, Notices etc. like Shareholding agreement, Shares subscription agreement, Joint Venture Agreements, Contracts in relation to IT projects, Banking agreement, Bank Guarantee Deeds, Sale and Services Agreements, Market Making agreements, Broker License agreements, Agency Service agreements, Rental agreements, Marketing rights agreement with media, Financial Consultancy Agreements, and others of any nature whatsoever.
- Vetting all legal and regulatory documents.
- Giving legal opinions on any business or regulatory functions and roles of the Exchange and all matters concerning thereon.
- Dealing with Anti Money Laundering & Anti-Terrorist Financing issues with regulators and Financial Monitoring Unit etc.
- Drafting of Regulations, Policies, Standard operating Procedures and other notes to mitigate operational and legal risk management and other matters dealing with trade, settlement, execution of contracts etc.
- Review on constant basis Memorandum and Articles of Association of the Exchange to align with new regulatory requirements and to meet the growing challenges of the company.
- Pursuing all legal cases by or against the Exchange.
- To keep liaison with legal advisors for seeking legal opinions and to deal with legal issues of the Exchange with various regulatory bodies, agencies and institutions etc.
- Participating in all the disciplinary / regulatory investigations / inquiries against Exchange or any of its members/Ex-members/brokers before any law enforcement agency or Securities & Exchange Commission of Pakistan.
- To oversee and mitigate all legal risks.
- Agreements in relation to software/hardware services, license, lease, loan agreements etc.

Terms of Reference – Regulatory Affairs Committee

- Drafting of complaints, written statements, filing cases against any person and defending the organization at any legal forum via legal representation.
- Draft of various Deeds such as Trust Deed, Investor Protection Fund Deed or Regulations thereon.
- Novation Agreement, On-Line Banking services Agreement, Mandate letters.
- Indemnity bonds, Memorandum of understandings, Financial Consultancy Agreements, Trading procedures etc.

Compliance and Enforcement

- Establish and enforce compliance procedures to ensure that the procedures reflecting current laws and provide adequate guidance to the brokers, employees and other market stakeholders about their permissible conduct.
- Supervising system audit of brokers and introduce a system of regular inspection of brokers.
- Continuously liaise between the Exchange/SECP and the brokers etc. on compliance related issues.
- Ensure that adequate systems and procedures are in place and maintained by supervisory personnel of LCD.
- Ensure that all applicable rules/regulations/procedures/directives, code of conduct and any amendments therein are strictly adhered to by all market participants.
- Initiate enforcement actions in compliance with General Regulations 2007 and other applicable laws etc.
- Dissemination of information in relation to disciplinary actions of the Exchange against market participants via website for the information of general public and market participants.
- To ensure that proper standard operating procedures are in place of all departments.

Surveillance, Monitoring and Enforcement

- To ensure maintaining orderly market by conducting effective monitoring and trading surveillance of all market participants.
- Identify situations that could pose a threat of manipulation or an attempt to maneuver the market with intention to disrepute the fair trade practices and to initiate appropriate preventive actions.

Terms of Reference – Regulatory Affairs Committee

- Ensure that market is free from unfair trade practices, price distortions and market congestions etc.
- Investigate against any violation or threat of violation of trading Regulations or procedures framed thereon to maintain orderly market.
- To check, enforce and implement decisions and to take proactive steps to avert any potential regulatory risk which may assist or lead to disrepute the market.
- Ensure that proper systems for detecting violations/market malpractices are in place and in operation and tools are available to detect the same.

Risk Management:-

- Without limiting the generality of the Committee's objective, the RAC shall have the following responsibilities, powers, authorities and discretion:
 - (a) to review and approve all proposed new contracts for listing;
 - (b) to review and approve proposed changes to existing contracts;
 - (c) to review and approve risk management methodologies and practices of the Exchange;
 - (d) To review and approve rules, regulations and policies relating to the functioning of the market; and
- In performing its duties, RAC shall concern itself with the business and strategic needs of the Exchange, without compromising the risk management capabilities of the Clearinghouse.
- Review and implement regulatory risk management standards in the light of General Regulations 2007.
- Undertake on behalf of the Board such other related tasks as the Board may from time to time entrust to it.

Membership

- Ensure compliance on admission standards for becoming a Member of the Exchange.
- Specify minimum criteria for registration as a broker and renewal of registration as broker with the approval of SECP.
- Formulate necessary regulations in relation to membership affairs and to recommend necessary regulatory amendments from time to time for effective functioning of Membership Affairs.
- Process No Objection Certificates for transfer of memberships as per criteria specified by the Commission.

Investor Complaints & Arbitration

- Establish a dispute resolution mechanism.
- Handle and process investor complaints.
- Conduct preliminary enquiries and arrange hearings and mediations in compliance with General Regulations 2007.
- Assist and coordinate for conducting arbitration proceedings and to ensure compliance of decisions/awards.
- Initiate/defend legal proceedings in respect of enforcement actions of Compliance division.

Regulatory Trading Compliance

- Setting up of code of conduct for brokers in consultation with the Commission.
- Create awareness of the code of conduct amongst the brokers.
- Ensure compliance of applicable Rules and Regulations, orders of the Commission or decision of the Governing Board.
- Formulate Rules and regulations relating to trading of brokers and their traders/clients. Also formulate necessary regulatory amendments.
- Frame Regulations and to ensure compliance for brokers' branch offices and registration of their authorized persons and update the same regularly.
- Ensure regulatory trading compliance by the Exchange and brokers and other market participants

Product Development Compliance Management under Regulatory Regime:-

- Ensure compliance of Registration of new products under General Regulations and applicable laws.
- Review the products in line with registration requirements as provided under Commodity Exchange and Futures Contract Rules 2005, product notes and other applicable laws etc.

Inquiries and Investigation and Reporting

- Ensures proper reporting of violations or potential violations to Managing Director and duly authorized enforcement agencies as appropriate and/or when required.

Terms of Reference – Regulatory Affairs Committee

- Ensure that LCD works independently within the company and collaborates with other departments (e.g., Risk Management, IT, Internal Audit, Human Resources, Product development, Operations) to ensure regulatory compliance on issues for resolution.
- To develop and oversee a system for uniform handling and responding to alleged violations of Rules, Regulations, policies and procedures by evaluating or recommending the initiation of investigative procedures.
- To enforce the decisions of RAC in its letter and spirit and submitting periodically reports thereon.

Compliance of Anti Money Laundering and Anti-Terrorist Financing Requirements

To ensure that the Exchange is strictly in adherence to Anti Money Laundering and Anti-Terrorist Financing regulatory requirements. Reporting of AML compliance reports such as Cash Transactions Report, Suspicious Transactions reports, KYC & KYCC requirements to Financial Monetary Unit as per guidelines provided by State Bank of Pakistan/Securities and Exchange Commission of Pakistan and to ensure that the registered Commodity Futures products as well as members/brokers of the Exchange are in compliance with such requirements.