

SECP Amendments to Futures Brokers (Licensing and Operations) Regulations, 2018

Notified vide S.R.O. 1912 (I)/2022 dated October 14, 2022

SECP Amendments	Rationale
CHAPTER I - PRELIMINARY	
2. Definitions	
1(e) “customer bank account” means the bank account opened by the futures broker with a scheduled bank in Pakistan for deposit of money received by the broker from the customer for the purposes of trading in futures contracts;	Deletion consequent to Direct Funds Model.
1(k) “scheduled bank” has the same meaning as defined in clause (m) of Section 2 of the State Bank of Pakistan Act, 1956 (XXXII of 1956);	
CHAPTER II - LICENSING REQUIREMENTS FOR FUTURES BROKER	
4. Eligibility criteria for licensing of a futures broker.-	
1(a) has obtained prior permission of the Commission under regulation 5 of these Regulations; <u>“Provided that a person holding a valid license to act as a Securities/Future Broker under Securities Brokers (Licensing and Operations) Regulations, 2016 may apply for license as a futures broker for commodities and financial instruments without prior permission of the Commission under these regulations.”;</u>	Insertion to exempt prior approval for PSX brokers.
1(e) the applicant identifies names and details of its sponsors which shall be required to collectively hold and retain not less than fifty one per cent of the share capital of the applicant, and in the case of a listed company, not less than twenty five per cent of the share capital of applicant provided that any change in sponsors shall not be affected without prior written approval of the Commission; <u>“Provided that no prior approval of the Commission shall be required in case of reduction of number of sponsors through transfer/sale of shares among existing identified sponsors under clause (e) of Regulation 4.”;</u>	Insertion to remove SECP’s prior approval for change in sponsors.
1(h) the chief executive of the company does not hold any <u>such</u> office in any other company;	Substitution to remove bar on CEO to hold any office.
1(k) In case of a company other than a company deemed licensed under regulation 3 above, its sponsors have submitted verifiable documents such as wealth statement submitted with the tax authorities or a certificate issued by an auditor enlisted within category “A” of the State Bank of Pakistan’s panel of auditors to demonstrate that its net worth is not less than twice the amount to be subscribed by him personally.	Deletion to remove demonstration of twice net worth by sponsors.
7. Financial Resources Requirement.-	
(1) An applicant for a licence as a futures broker shall comply with and ensure ongoing compliance with minimum paid-up capital and net worth of Rupees twenty (20) <u>ten (10)</u> million.	Deletion of paid up capital and substitution of net worth to 10 million.
(2) In case a futures broker fails to meet the minimum paid-up capital and/or net-worth requirements as specified in sub-regulation (1), the futures exchange shall allow a period of 30 calendar days to the futures broker to comply with the minimum capital requirement, failing which the futures exchange shall restrict the trading facility of such futures broker and its licence shall be suspended by the Commission without prejudice to any other disciplinary action under the Act and these regulations.	Deletion in line with sub-clause (1) above.

8. Grant of licence.-	
(4) Within fifteen days <u>three months</u> of the grant of licence, the futures exchange, prior to allowing commencement of business to a futures broker, shall confirm through a visit of such futures broker's premises that the futures broker has put in place-	Substitution to extend time for premises visit.
9. Renewal of licence.-	
(1) Subject to the provisions of the Act and these regulations, a futures broker having a valid license shall, forty five (45) <u>thirty (30)</u> days prior to the date of expiry of its licence, apply to the Commission through futures exchange in Form C along with an undertaking stating that it is in compliance with all regulatory requirements and receipt evidencing payment of renewal fee of such amount as specified in Schedule I, for renewal of its licence.	Substitution to align with Futures Market Act.
CHAPTER III - CONDUCT OF A FUTURES BROKER	
16. Duties and obligations of a futures broker.-	
1(q) intimate futures exchange prior to opening of any branch subject to the requirements as prescribed by the futures exchange/Commission from time to time. Provided that the futures exchange shall conduct periodic visit/inspection of the branches on an annual basis <u>periodic inspection of the branches of brokers on the basis of a risk based inspection plan</u> to ensure its compliance with the regulatory framework.	Deletion of annual visit of brokers' branches.
10(e) testing of the contingency plan on quarterly <u>bi-annual</u> basis or any other interval as may be specified by the Commission.	Substitution to extend time for testing of contingency plan.
(12) A futures broker licensed under these regulations shall ensure: (a) compliance with customers' assets segregation requirements as specified by the futures exchange or the Commission from time to time;	Deletion consequent to Direct Funds Model.
22. Electronic contract notes.-	
(6) Wherever the electronic contract notes have not been delivered to the customer or have been rejected (bouncing of mails), the futures broker shall send a physical contract note to the customer within the timeline specified under regulation 20 <u>regulation 21</u> .	Substitution to align numbering.
23. Segregation of customer money.- Receipt of customer money.-	
<u>A future broker shall not receive customer money in its own name or hold customer assets for whatsoever purpose.;</u>	Substitution & deletion consequent to Direct Funds Model.
(1) Customer money shall not form part of the assets of the futures broker for any purpose and shall not be available in any circumstances for payment of any debt or liability of the futures broker.	
(2) A futures broker shall not use customer money for any purpose other than as allowed under the Act or any rules or regulations made thereunder.	
(3) A futures broker who receives or holds customer money shall open one or more designated bank accounts with a scheduled bank in Pakistan for such purpose and the title of the account shall reflect the same.	
(4) A designated customer bank account shall be kept segregated from any account holding money belonging to the futures broker.	

(5) A futures broker shall forthwith deposit into a designated bank account for the customers, all customer money coming into the futures broker's hands from a customer and the same will be transferred to the futures exchange no later than 2 working days from the date of receipt of money;	
(6) A futures broker shall keep records of: (a) all amounts deposited into the designated bank account(s), specifying the customers on whose behalf the amounts are held and the dates on which the amounts were received; (b) all payments from the designated bank account(s), the dates of those payments, and the names of the customers on whose behalf the payments are made; and (c) such other particulars as may be specified by the Commission.	
(7) No amount from customer bank account(s) shall be withdrawn in cash and all payments shall be made through cross cheques or other banking channels and where payment is made through cross cheques, the futures broker shall keep copy of the cheques issued for the purposes of record.	
(8) All payments due to the customer, received from the futures exchange shall be processed within one (01) working day for transfer into the customer's account. No amount from the futures broker's bank account(s) shall be withdrawn in cash, and all payments shall be made through cross cheque(s) or other banking channels.	
24. Accounting for and use of customer money.-	
(1) A futures broker shall properly account for customer money and ensure that,— (a) customer money is not mixed with other money; (b) a futures broker can at all times calculate how much customer money stands to the credit of each customer; and (c) money belonging to one customer is not used for another customer.	Deletion consequent to Direct Funds Model.
(2) A futures broker shall not withdraw money received and deposited in the designated bank account otherwise than for the purpose of,— (a) making a payment to a person entitled to the money; (b) meeting obligations emanating from dealing in futures contracts effected by the futures broker on the instructions of a customer; (c) defraying brokerage and other charges or levies incurred in respect of dealing in futures contracts effected by the futures broker on the instructions of a customer; or (d) making a payment that is otherwise authorized by law.	
27. Appointment and functions of Compliance Officer.-	
(2) The compliance officer shall also be responsible for ensuring compliance with and performing functions pertaining to the segregation and safekeeping of customer assets.	Deletion consequent to Direct Funds Model.
CHAPTER IV - ACCOUNTING AND AUDIT	
29. Maintenance of books of accounts and other records.-	
(5) A futures broker shall prepare and maintain books of accounts and other documents in a manner that will disclose a true, accurate and up-to-date position of business, including but not limited to:-	Deletion consequent to Direct Funds Model.

(j) record of individual customers balances stating the name of each customer and the amount held or received for that customer;	
(7) A futures broker shall maintain separate books of accounts for: (i) money received from or on account of and money paid to or on account of each of its customer; and (ii) the money received and the money paid on a futures broker or an associated person's own account.	Deletion consequent to Direct Funds Model.
31. Appointment of auditor and related matters.-	
(5) The audit report shall state all the matters as are required to be stated in accordance with the requirements of the Companies Act and where applicable, must state additionally an opinion as to whether the futures broker was in compliance with the requirements of section 62 of the Act and the relevant requirement of these regulations as at the date on which the balance sheet was prepared.	Deletion consequent to Direct Funds Model.
(6) The auditor shall also make out a limited assurance report of the futures broker stating whether, during the period, the futures broker has, in all material respects: (a) maintained systems and control adequate to identify with reasonable accuracy the assets held on behalf of customer and distinguish such assets from the proprietary assets of the futures broker;	Deletion consequent to Direct Funds Model.
ANNEXURE - A INFORMATION TO BE SUPPLIED TO UNDERTAKE FUTURES BROKER ACTIVITY	
8. Affidavit from each person mentioned in paragraph 1 above, stating that- g) Latest CIB report of the above person.	Deletion to remove CIB report.
Form – A-I FORM OF APPLICATION FOR LICENCE AS A FUTURES BROKER [see Regulation 5(1)] [see Regulation 6(1)]	
ANNEXURE – B FIT AND PROPER CRITERIA FIT AND PROPER CRITERIA FOR APPLICANT, SPONSORS, DIRECTORS AND SENIOR MANAGEMENT OFFICERS OF FUTURES BROKERS	
First Paragraph: This Fit and Proper Criteria is perpetual in nature and its compliance is mandatory. The futures exchange shall ensure that the applicant, its sponsors, directors and senior management officers are fulfilling the fit and proper criteria before submitting <u>application for approval</u> to the Commission <u>with the exception of scrutiny of the CIB report (which shall be obtained by the Commission).</u>	Insertion for clarity & exception for CIB report.
(3) In case of chief executive officer, the person should: c) have attained necessary certification as specified by the Commission from time to time. Provided that where a person possesses seven years of relevant experience of the financial services sector/capital markets/commodity business, the minimum qualification requirement provided in clause (a) may be relaxed.	Deletion of proviso to provide relaxation for all persons.

<p>(4) In case of compliance officer, the person shall b) have a minimum experience of three years in audit, finance or compliance functions or any other managerial position in a company in the financial sector.</p> <p><u>Provided that for all of the above persons, where a person possesses seven years of relevant experience of the financial services sector/capital markets/commodity business, the minimum qualification requirement shall be relaxed.</u></p>	<p>Proviso inserted to provide relaxation for all persons.</p>
<p style="text-align: center;">ANNEXURE – C CORPORATE GOVERNANCE CODE FOR FUTURES BROKER</p>	
<p>2. Responsibilities, powers and functions of board of directors</p>	
<p>a) The board should set the strategic objectives and ensure that necessary financial and human resources are in place for meeting those objectives. The board shall further ensure that significant policies have been formulated on the following issues, among others:</p> <p>iii) segregation of customer assets from futures brokers' assets.</p>	<p>Deletion consequent to Direct Funds Model.</p>
<p>3. Meetings of the board</p>	
<p>a) The board shall <u>may</u> meet at least once in every six months and be provided with appropriate and timely information <u>on a voluntary basis</u>.</p>	<p>Substitution & insertion to remove mandatory requirement.</p>
<p>7. Auditors</p>	
<p>A futures broker shall have its statutory audit conducted from an auditor enlisted within Category "A" "B" of the State Bank of Pakistan's Panel of Auditors <u>from a list maintained by ICAP of practicing firms having satisfactory QCR rating.</u></p>	<p>Insertion to substitute SBP A/B Panel auditor with ICAP QCR rating auditor.</p>
<p>9. Corporate and financial reporting framework</p>	
<p>b) The quarterly and annual financial statements shall be approved by the board and the CEO.</p> <p><u>Provided that a licensed futures broker may comply with the above requirement in respect of quarterly financial statements on a voluntary basis.</u></p>	<p>Proviso inserted to remove mandatory requirement.</p>