

GOVERNMENT OF PAKISTAN  
SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

**NOTIFICATION**

Islamabad, the June 01, 2016.

**S. R. O. 469 (I)/2016.** - In exercise of the powers conferred under sub-section (3) of section 175 of the Securities Act, 2015 (III of 2015), read with clause (c) of sub-section (2) of section 175 of thereof, the draft Customers Compensation Fund (Establishment and Operation) Rules, 2016, proposed to be made by the Federal Government, are hereby published for information of all the persons likely to be affected thereby and notice is hereby given that objections or suggestions, if any, received from any person in respect of the said draft within a period of thirty days from the date of publication in the official Gazette, with subsequent placement of the rules on the website of the Commission, shall be taken into consideration.

**1. Short title and commencement.-** (1) These Rules may be called the Customers Compensation Fund (Establishment and Operation) Rules, 2016.

(2) They shall come into force at once.

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

- (a) "Act" means the Securities Act, 2015 (III of 2015);
- (b) "claim" means the claim of a customer against a defaulter in respect of any dealing of securities in accordance with the provisions of the Act and rules or regulations made thereunder;
- (c) "defaulter" means a Trading Right Entitlement Certificate (TRE certificate) holder of a securities exchange which has been declared as a defaulter under its regulations;
- (d) "Fund" means the Customers Compensation Fund established under these rules;

(e) "regulations" means regulations made by the Commission under clause (h) of sub-section (2) of section 169 of the Act; and

(f) "trust" means the trust constituted by the trust deed under the Trust Act, 1882 (II of 1882).

(2) Words and expressions used but not defined in these Rules shall, unless the context otherwise requires, have the same meaning as assigned to them in the Act, the Companies Ordinance, 1984 (XLVII of 1984), the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997), Central Depositories Act, 1997 (XIX of 1997), Stock Exchanges (Corporatisation, Demutualization and Integration) Act, 2012 (XV of 2012), or the Trust Act, 1882 (II of 1882) .

**3. Purpose of the Fund.-** The Fund shall be established and operated in the manner provided in these rules to compensate, either fully or partially, customers of a defaulter in the manner as provided in the regulations.

**4. Establishment of Fund.-** (1) The securities exchanges shall establish a centralized Fund in the form of a trust which shall be administered by trustees appointed in the manner as provided in these rules:

Provided that where only one securities exchange is licensed under the Act at the time of commencement of these rules, the investor protection fund maintained by such securities exchange immediately prior to commencement of these rules shall be deemed to be a centralized Fund subject to compliance with these rules and the regulations:

Provided further that where more than one securities exchange is licenced under the Act, the Commission may direct the securities exchanges to establish and operate a centralized Fund under these rules and regulations.

(2) The securities exchanges shall provide a secretariat for the Fund.

(3) The securities exchanges shall ensure that all the assets comprising the Fund are segregated from the assets of the securities exchanges and that the Fund is insulated from any liabilities of the securities exchanges.

5. **Size of the Fund.**- The minimum size of the Fund shall be determined by the securities exchanges from time to time based on a methodology approved by the Commission which may include stress testing, actuarial valuation or any other internationally recognized method.

6. **Contributions to the Fund.**- The Fund may comprise contributions from the following in the manner as provided in the regulations:

(i) amounts transferred from trust funds for protection of customers, TRE certificate holders or clearing houses, by whatsoever name called, of the securities exchange which is licensed or whose licence was surrendered or cancelled as a result of integration of the securities exchanges;

(ii) levy on the value of securities traded at the securities exchange collected from TRE certificate holders;

(iii) proportion of revenue of the securities exchange;

(iv) fines, penalties etc. as may be collected by the securities exchange;

(v) income generated from investments of the Fund's assets;

(vi) any monies paid by an insurer under a contract of insurance entered into for the benefit of the Fund;

(vii) any contribution that has been received from any other person; and

(viii) any other source or amount as may be specified by the Commission from time to time.

7. **Utilization of the Fund.**- (1) The Fund shall only be utilized to compensate customers against their claims against defaulters in the manner provided in the regulations.

(2) The Fund may be utilized to meet any directly attributable expenses incurred for administration of the Fund:

Provided that the securities exchange may charge, with the prior approval of the Commission, a reasonable amount commensurate with the expenses incurred on the management of the Fund.

8. **Operation of the Fund.-** (1) The Fund shall be administered by the trustees who are fit and proper persons in terms of the criteria notified by the Commission and appointed for a specific period by the securities exchanges with prior approval of the Commission.

(2) The number of the trustees shall be determined from time to time by the securities exchanges. Each securities exchange shall appoint an equal number of trustees on the Fund.

(3) A trustee may resign at any time on giving notice in writing to the securities exchanges which shall immediately fill up the vacancy with the approval of the Commission.

(4) No remuneration shall be payable to the trustees except for expenses incurred by the trustees in the administration of the Fund.

(5) The trustees shall also ensure that;

(a) the Fund is duly registered with the Federal Board of Revenue or with any other agency of the Federal or Provincial Government to have tax or other benefits as available to any non-profit trust under the applicable laws;

(b) the trust deed of the Fund is in accordance with the requirements of these rules and the regulations;

(c) no change in the trust deed is carried out without the prior approval of the Commission;

(d) the contributions are made into the Fund in accordance with provisions of these rules and the regulations;

(e) the monies available in the Fund are not invested in high risk ventures and that risk associated with investments are prudently managed;

(f) the claims of customers are admitted after due verification process and payments are made against the admitted claims in accordance with these rules and the regulations;

(g) the money, property or income of the Fund or any part thereof are utilized solely for promoting its objective as stated in these rules and the regulations;

(h) no portion of the money, property or income of the Fund is paid or transferred directly or indirectly by any means to a person other than specifically allowed under these rules and the regulations;

(i) the properties of the Fund are properly maintained;

(j) proper books of accounts and records of the Fund are maintained;

(k) financial statements of the Fund are audited by a firm of chartered accountants having satisfactory QCR rating; and

(l) in the event of dissolution of the Fund or winding up of the securities exchanges, the assets of the Fund are transferred to another Fund established for the purpose of protection of customers as per the directions of the Commission after meeting or providing for outstanding liabilities.

9. **Reporting requirements.**- The trustees shall forward financial statements along with audit report regarding the Fund to the Commission within four month of the close of its financial year.

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1/6/16

(Bushra Aslam)  
Secretary to the Commission

