

[AS PASSED BY THE NATIONAL ASSEMBLY]

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BILL

further to amend the Securities and Exchange Commission of Pakistan Act, 1997

Whereas it is expedient further to amend the Securities and Exchange Commission of Pakistan Act, 1997(XLII of 1997), for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.- (1) This Act shall be called the Securities and Exchange Commission of Pakistan (Amendment) Act, 2021.

(2) It shall come into force at once.

2. Amendments of section 2, Act XLII of 1997.- In the Securities and Exchange Commission of Pakistan Act, 1997(XLII of 1997), hereinafter referred to as the said Act, in section 2, in sub-section (1),-

- (a) in clause (s), for the word "schedule", occurring for the second time, the word "schedules" shall be substituted;
- (b) in clause (v), the word "and" at the end shall be omitted; and
- (c) in clause (w), for full stop at the end a semicolon and the word "and" shall be substituted and thereafter the following new clause shall be added, namely:-

“(x) “Tribunal” means the Financial Services Market Tribunal established under this Act.”.

3. Amendments of section 5, Act XLII of 1997.- In the said Act, in section 5,-

(a) for sub-section (1) the following shall be substituted, namely:-

“(1) Subject to sub-section (2), the Commission shall consist of a Chairman and four Commissioners to be appointed in the prescribed manner by the Federal Government on the recommendation of the selection committee in accordance with section 7A.”;

(b) after sub-section (3), the following new sub-section (3A) shall be inserted, namely:-

“(3A) Decision of the Commission shall be taken by majority of the Commissioners who are present in the meeting. The quorum of the meeting shall be minimum three Commissioners. In the event of a tie, the Chairman shall have a casting vote.”; and

- (c) after sub-section (5), the following new sub-section (6) shall be added, namely:-

“(6) Appointment to a vacancy in the Commission shall be made within a period of one hundred and twenty days from the date of such vacancy.”.

- 4. Substitution of section 6, Act XLII of 1997.-** In the said Act, for section 6, the following shall be substituted, namely: -

“**6. The Chairman.** -(1) No person shall be appointed as Chairman unless he is a person known for his integrity, expertise and exemplary reputation having at least twenty years experience including five years at a senior level in any relevant field, including but not limited to, the securities market, law, accountancy, economics, finance, insurance and industry.

(2) The Chairman shall hold office for a term of three years and shall retire on attaining the age of sixty-five years or on the expiration of his term whichever is earlier and such term may, based on performance, be extended once for a period of two years by the Federal Government and shall not be eligible for further extension or re-appointment as a Chairman or Commissioner under this Act.

(3) The Chairman shall be the chief executive officer of the Commission and shall be responsible for managing day to day administration including the overall operations and resources in relation to the affairs of the Commission in a manner as may be specified.”.

- 5. Substitution of section 7, Act XLII of 1997.-** In the said Act, for section 7, the following shall be substituted, namely: -

“**7. The Commissioners.** - (1) No person shall be appointed as Commissioner unless he is a person who is known for his integrity, expertise and exemplary reputation and having at least fifteen years experience including five years at a senior level in any relevant field, including but not limited to the securities market, law, accountancy, economics, finance, insurance and industry.

(2) The Commissioners shall hold office for a term of three years and shall retire on attaining the age of sixty-five years or on the expiration of this term whichever is earlier and such term may, based on performance, be extended once for a period of two years by the Federal Government and shall not be eligible for further extension or re-appointment as Chairman or Commissioner under this Act.

(3) A person previously appointed as the Chairman of the Commission shall not be appointed as a Commissioner.”.

- 6. Insertion of section 7A, Act XLII of 1997.-** In the said Act, after section 7, as substituted as aforesaid, the following new section 7A shall be inserted, namely: -

“**7A. Selection committee.** - (1) The Federal government shall constitute a selection committee comprising of such members as may be specified by the rules.

(2) The selection committee shall be responsible for identifying and recommending candidates to the Federal Government for appointment on the post of Chairman, Commissioner and independent Members.

(3) The procedure adopted by the selection committee for recommending candidates to a vacant position shall comply with the principles of merit, confidentiality, transparency, diversity and fairness, including, but not limited to-

- (a) advertisement in the newspapers of wide circulation;
- (b) requesting applications by invitation; or
- (c) appointing a head-hunting agency.

(4) The selection committee shall notify the procedure for the short listings of applications, the interviews and selection of candidates for recommending at least three names against each vacancy to the Federal Government for appointment and no amendment or alteration in the notified procedure shall take effect unless a period of four months has passed from the date of notification of such amendment or alteration.”.

7. **Amendment of section 8, Act XLII of 1997.-** In the said Act, in section 8, for sub-section (2), the following shall be substituted, namely:-

“(2) The Commission shall not impose a service penalty on an employee of the Commission appointed under sub-section (1), without a just cause or against the manner and procedure as may be determined by the Commission with the approval of the Board.

(3) Any employee aggrieved of an order of imposition of penalty may prefer an appeal before an appellate authority as may be determined by the Commission with the approval of the Board.”.

8. **Insertion of section 8A, Act XLII of 1997.-** In the said Act, after section 8, amended as aforesaid, the following new section 8A shall be inserted, namely:-

“**8A. Code of conduct.-** (1) The Chairman, Commissioners, Members, consultants and advisers shall abide by a code of conduct to be specified.

(2) The code of conduct under sub-section (1) shall *inter-alia* provide for-

- (a) the manner and procedure of managing the conflict of interest under this Act;
- (b) the manner of managing confidentiality obligations under this Act; and
- (c) the principles governing how the Commission should engage with regulated persons including certain restrictions on financial engagements with regulated persons.

(3) A violation of the code of conduct shall be deemed to be an act of misconduct if such violation is established through an enquiry undertaken in accordance with section 19.”.

9. Amendments of section 10, Act XLII of 1997.- In the said Act, in section 10, in sub-section (1)–

- (a) the words ‘one or more Commissioners’, shall be omitted; and
- (b) for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely: -

“Provided that the Commission shall not delegate any functions or powers specified in Schedule II.”.

10. Amendments of section 12, Act XLII of 1997.- In the said Act, in section 12,–

- (a) in sub-section (2), for clause (b), the following shall be substituted, namely:-

“(b) six independent Members appointed by the Federal Government from private sector on the recommendation of the selection committee in accordance with section 7A, including at least one from each Province, who are known for their integrity, expertise and exemplary reputation and who have at least twenty years experience including ten years at a senior level in any relevant field including but not limited to the securities market, law, accountancy, economics, finance, insurance and industry:

Provided that if a person has previously held the position of a Chairman or Commissioner under section 6 or section 7, he shall not be appointed as an independent Member of the Policy Board unless a period of two years has elapsed from the date of completion of his tenure as Chairman or Commissioner, as the case may be.”;

- (b) for sub-section (3), the following shall be substituted, namely:-

“(3) The independent Members of the Board shall hold office for a maximum term of four years or on attaining the age of sixty-five years whichever is earlier.”;

- (c) in sub-section (5), for the words “Additional Secretary” the expression “BPS-20” shall be substituted”; and

- (d) after sub-section (7), the following new sub-section (8) shall be added, namely:-

“(8) A vacancy in membership of the Board shall be filled within one hundred and twenty days from the date of occurrence of such vacancy.”.

11. Amendment of section 13, Act XLII of 1997.- In the said Act, in section 13, in sub-section (2), for the word ‘including the Chairman’, the expression ‘the majority of whom must be independent Members and shall also include the Chairman of the Board and the Chairman of the Commission’ shall be inserted.