

[AS REPORTED BY THE STANDING COMMITTEE]

A

BILL

*further to amend the Modaraba Companies and Modaraba
(Floatation and Control) Ordinance, 1980*

WHEREAS it is expedient further to amend the Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980 (XXXI of 1980) for the purpose hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.- (1) This Act may be called the Modaraba Companies and Modaraba (Floatation and Control) (Amendment) Act, 2009.

(2) It shall come into force at once.

2. Insertion of new section, Ordinance XXXI of 1980.- In the Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 2008 (XXXI of 1980), hereinafter refer to as the said Ordinance, after section 18, the following new section shall be inserted, namely:-

“18A. Power to issue directions.- (1) Notwithstanding anything contained in any other provision of this Ordinance, where the Registrar is satisfied that it is necessary and expedient so to do-

- (a) in the public interest; or
- (b) to prevent the affairs of any modaraba from being conducted in a manner detrimental to the interest of holders of Modaraba Certificates; or
- (c) to secure the proper management of any modaraba generally,

he may issue such directions to a modaraba company or the modaraba companies generally, as he may deem fit, and the modaraba company and its management shall be bound to comply with such directions.

(2) The Registrar may, on a representation made to him or on his own motion, modify or withdraw any direction issued under sub-section (1), and in so modifying or canceling any direction may impose such conditions as he thinks fit.”

3. **Insertion of new sections, Ordinance XXXI of 1980.-** In the said Ordinance after section 41, the following new sections shall be inserted, namely:-

“41A. Power to make regulations.- (1) The Commission may, by notification in official Gazette, make such regulations as are necessary to carry out the purposes of this Ordinance:

Provided that the power to make regulations conferred by this section shall be subject to the condition of previous publication and before making any regulations the draft thereof shall be published in the manner considered most appropriate by the Commission for eliciting public opinion thereon within a period of not less than fourteen days from the date of publication.

(2) Any regulation made under sub-section (1) may provide that a contravention thereof shall be punishable with a fine which may extend to one hundred thousand rupees and, where the contravention is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which such contravention continues.

41B. Power to issue directives, circulars, codes, guidelines, etc.-

The Commission may issue such directives, circulars, codes, guidelines or notifications as are necessary to carry out the purposes of this Ordinance and the rules and regulations made thereunder.”

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to empower the Securities and Exchange Commission of Pakistan to make regulations and to issue directives, circulars, codes and guidelines, for the purposes the Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980. It further seeks to empower the Registrar of modarabas to issue directions to the modarabas and modaraba management companies for the purpose of the Ordinance. The strengthening of the regulatory powers of the Commission and the directive authority of the Registrar would safeguard the interest of modaraba investors, bring efficiency in the modaraba management and strengthen the non-banking finance companies sector.

**Syed Naveed Qamar,
Minister-in-Charge**