

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

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further to amend the Banking Companies Ordinance, 1962.

WHEREAS, it is expedient further to amend the Banking Companies Ordinance, 1962 (No. LVII of 1962), for the purposes hereinafter appearing:

It is hereby enacted as follows:-

1 **Short title and commencement.-** (1) This Act may be called the Banking Companies (Amendment) Act, 2010.

(2) It shall come into force at once.

2 **Substitution of section 33B, Ordinance LVII of 1962.-** In the Banking Companies Ordinance, 1962, for section 33B, the following shall be substituted, namely:-

33B. Guidelines by the State Bank, in order to write-off loan. - The State Bank shall ensure the following provisions before writing-off loans of individuals and banking companies, etc.:-

- a) After the enactment of this Act, Board of Directors of all the Banks, operating under the umbrella of State Bank of Pakistan, will have power to write-off loan of individual(s) and banking companies of less than an amount of 1 million. If the amount of writing-off loan exceeds from 1 million, respective banks shall submit a proposal to the State Bank of Pakistan, and Board of Directors of State Bank shall scrutinize and decide the fate of proposals either writing-off the loan or otherwise, by giving justification thereof in writing. Board of Directors of State Bank of Pakistan shall decide each proposal made by the respective banks within three months. State Bank of Pakistan and other respective banks shall ensure the laid-down provisions of this Act, while writing-off the loan;
- b) The write off proposal shall be duly audited by the internal auditor/surveyor and approved by the State Bank of Pakistan;
- c) The latest market value of properties or stock held as security against advances indicating present market value as well as forced sale value duly assessed by an approved auditor/surveyor shall be produced. No write off be allowed, if the forced sale value of the security held by the bank is more than the outstanding amount recoverable;
- d) Once the loan of an individual or a banking company has been written-off, that individual or banking company shall be barred to get any other loan from all the banks operating within Pakistan;
- e) Full particulars of written off loans should be reported to the State Bank of Pakistan;
- f) It shall be mandatory for State Bank of Pakistan to submit a comprehensive report of written-off loan by the respective banks and State Bank of Pakistan, as provided in this Act, to the Standing Committee of the National Assembly on Finance and Revenue within six months. The Committee shall revisit such waivers, by giving justification in writing and shall submit report of such waiver to the National Assembly alongwith the relevant papers of annual budget.
- g) The write off of loans, if any, in the names of Directors or their relatives/ dependents/ in which they have any interest and in the names of Chief Executives of the Banks shall require prior approval of the State Bank.

STATEMENT OF OBJECTS AND REASONS

1. Loan write-offs are a normal risk of the banking business all over the world. In Pakistan, when the banks write off billion of rupees of loans, due to poor governance in banking system, the banking system is on the verge of collapse resulting from huge losses due to very high levels of non-performing loans. The government has to inject over billion of rupees of new capital which, along with other banking-sector reforms, including privatization, will enable the banking system to achieve stability and soundness.
2. In the past, no serious effort was made to distinguish between defaults resulting from genuine difficulties (i.e., a natural disaster, an economic downturn) or from excessive borrowing and the owners' siphoning-off company funds for personal use. The banks should have undertaken a rigorous review to assess whether the rich and large borrowers made any serious effort to raise money to pay-off loans and inject new funds into their companies. In the absence of such a review, there was no real hardships imposed on large willful defaulters and scarce tax revenues were used to bail out poorly performing companies with rich owners.
3. Mian Muhammad Nawaz Sharif, in his tenures took several steps to curb the rising trend of writing off loans, and advised the State Bank of Pakistan not to tolerate bank defaulters, however, a dictator Pervaiz Mushraf not only ousted an elected government by illegal means but also directed the State Bank of Pakistan for issuing its infamous guidelines on October 15, 2002, enabling more than 80,000 people to write-off their loans. This was only done to buy support of favorite personalities.
4. Therefore, it is need of the hour to formulate strict laws, in order to curb this trend, as well as, to make the role of the State Bank of Pakistan more effective. Moreover, Parliament should also be taken on board, and good governance should be ensured in banking sector. This Act seeks to achieve the aforesaid objectives.

Sd/-

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