

[AS PASSED BY THE NATIONAL ASSEMBLY]

A

BILL

*to provide for the corporatisation, demutualization and integration
of stock exchanges in Pakistan*

WHEREAS, it is expedient, for the development of the capital markets of the country, to provide for the corporatisation and demutualization of the stock exchanges in Pakistan and to facilitate the integration of these stock exchanges and for matters ancillary thereto;

It is hereby enacted as follows:

CHAPTER-I

PRELIMINARY

1. **Short title extent and commencement.**—(1) This Act may be called the Stock Exchanges (Corporatisation, Demutualization and Integration) Act, 2009.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—(1) In this Act, unless there is anything repugnant in the context or subject,—

(i) “assets” means all immovable and movable properties (whether actual or contingent, tangible or intangible) and include all land, building, machinery and equipment, shares, securities, deposits, cash, bank balances, profits, dividends, fees, commissions, receivables, claims, contracts, licenses, privileges, reserve funds, investments and all other rights and interests in and arising out of such property in the ownership, possession, power or control of a stock exchange at any given time;

(ii) “blocked account” means a CDC account established by a stock exchange in accordance with clause(c) of sub-section (1) of section 5;

- (iii) "CDC" means the Central Depository Company established in pursuance of the Central Depository Companies (Establishment and Regulation) Rules, 1996;
- (iv) "Commission" means the Securities and Exchange Commission of Pakistan established under the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997);
- (v) "Committee" means the demutualization committee of members of the stock exchange ratified under section 3 by the members of the stock exchange;
- (vi) "Companies Ordinance" means the Companies Ordinance, 1984 (XLVII of 1984);
- (vii) "Connected Person" means in relation to a natural person, a spouse, real, step or half sibling, lineal ascendant or descendant of such person, a partner, promoter or substantial shareholder of an undertaking, company or body corporate of which such person is also a partner, promoter or substantial shareholder or an undertaking, company or body corporate in which such person is a partner, promoter, substantial shareholder or director; in relation to a legal person a Connected person means an undertaking, company or body corporate which is a holding, subsidiary or associated company of such legal person;
- (viii) "corporatisation" means the conversion of a stock exchange from a company limited by guarantee to a public company limited by shares;
- (ix) "date of corporatisation" means the date on which the Registrar issues a certificate of re-registration to the stock exchange as evidence of its change in status from a company limited by guarantee to a public company limited by shares;
- (x) "date of demutualization" means the date on which the Registrar issues a certificate of re-registration to the stock exchange in accordance with the provisions of section 6;
- (xi) "demutualization" means the segregation of the majority ownership of a stock exchange from the right to trade on such stock exchange;
- (xii) "financial institution" includes foreign or local commercial banks, development financial institutions, non-banking finance companies, insurance companies, stock exchanges, commodity exchanges, derivative exchanges or any such other entity which has been notified

by the Commission as a financial institution for the purposes of this Act;

- (xiii) "first directors" mean directors of the stock exchange nominated by a stock exchange or the Commission as the case may be and who take the office of director on the date of corporatisation and hold such office until elections of the directors are held in accordance with this Act;
- (xiv) "initial shareholders" means the legal owners of the shares of a stock exchange on the date of corporatisation;
- (xv) "integration" means the merger of two or more stock exchanges;
- (xvi) "liabilities" means all borrowings, financial obligations, debts, claims, or potential losses of every description (whether actual or contingent) of a stock exchange at any given date;
- (xvii) "member" means a member of a stock exchange prior to its corporatisation under this Act;
- (xviii) "prescribe or prescribed" means prescribed by the regulations made by the Commission;
- (xix) "scheme of integration" means a scheme of arrangement for the integration of two or more stock exchanges;
- (xx) "Securities Ordinance" means the Securities and Exchange Ordinance, 1969 (XVII of 1969);
- (xxi) "security" means a security as defined in clause (1) of sub-section (1) of section 2 of the Securities Ordinance;
- (xxii) "shareholders" means the legal owners of the shares of a stock exchange at any given time and include the initial shareholders;
- (xxiii) "stakeholders" means the employees of the stock exchange, the TRE certificate holders, the issuers of securities listed on a stock exchange, creditors, if any, of such stock exchange and the Government of Pakistan;
- (xxiv) "stock exchange" means a stock exchange registered under section 5 of the Securities Ordinance at the time of commencement of this

Act and includes a stock exchange after corporatisation, demutualization or integration as the case may be;

- (xxv) "strategic investor" means a stock exchange, depository company, a derivative exchange or a clearing house which has been approved by the Commission in accordance with the prescribed criteria, for the purposes of acquiring shares of a stock exchange in pursuance of section 12;
- (xxvi) "substantial shareholder" means a person who directly or indirectly controls, beneficially owns or holds not less than twenty percent of the voting rights of an undertaking, company or body corporate;
- (xxvii) "trading right entitlement certificate or TRE certificate" means a certificate issued by a stock exchange evidencing right of the TRE certificate holder to apply for registration as a broker in accordance with the Broker and Agent Registration Rules, 2001 as amended from time to time;
- (xxviii) "trading right entitlement certificate holder or TRE certificate holder" means a person who is issued a TRE certificate under section 5, or purchases or acquires such TRE certificate under section 16 or is issued a fresh TRE certificate in accordance with the provisions of this Act; and
- (xxix) "undertaking" means any trade or business of a stock exchange.

(2) The words and expressions used, but not defined in this Act, but which are defined in the Companies Ordinance or the Securities Ordinance shall have the same meaning as are assigned to them in these Ordinances.

CHAPTER-II

CORPORATISATION

3. **Demutualization Committee.**—(1) The members of a stock exchange shall not later than thirty days from the commencement of this Act, in a meeting of the stock exchange, ratify the creation and constitution of the demutualization committee existing at such commencement.

(2) The committee shall be fully authorized to—

- (a) approve the valuation of the stock exchange to be undertaken by the investment bank pursuant to clause (a), sub-section (1) of section 4;

- (b) enter into negotiations and finalize the sale of not more than forty percent of the total issued share capital out of the shares lying in the blocked account with any one or more strategic investors or financial institutions;
- (c) determine the offer price for offer for sale of shares to general public.

(3) The committee shall be fully empowered and bound to accept any price offered for the sale of shares by the strategic investor that is equal to or greater than the valuation carried out under section 4, and finalize and enter into an agreement for the sale of such shares to the strategic investor, and the members, the shareholders including the initial shareholders and the stock exchange shall be bound by such agreement;

Provided that the decision whether to accept or reject an offer from a strategic investor, if the price offered is less than the approved valuation, shall be made in a meeting of the initial shareholders of the stock exchange through a majority vote, unless the members while constituting the committee, gave such authority to the committee.

4. Submission of Information by the stock exchange.—(1) Within forty-five days of the commencement of this Act, each stock exchange shall, submit to the Commission the following, namely:—

- (a) a valuation of the stock exchange approved by the committee as at any date that may be specified by the Commission, based on the discounted cash flow or net asset value of the stock exchange, or any other internationally accepted method of valuation undertaken by a renowned international investment bank approved by the Commission;

Provided that the Commission may, on a reasoned request made by the stock exchange, extend the time for the submission of the valuation of the stock exchange till 120 days from the commencement of this Act;

- (b) a re-valuation of the assets and liabilities of the stock exchange as at 30th June, 2008, or as at any other date as may be specified by the Commission, undertaken by a firm of Chartered Accountants approved by the Commission in accordance with the prescribed criteria based on which valuation, the number of shares of ten rupees par value proposed to be issued will be determined;
- (c) the proposed authorized and paid-up capital of the stock exchange with the number of shares to be issued;

- (d) the names of members of the stock exchange proposed to be the initial shareholders of the stock exchange and the number and value of shares to be allotted to each such member:

Provided that the shares allotted in pursuance of this sub-section shall be allotted for consideration other than cash.

- (e) the names of members of the stock exchange, nominated to act as the first directors of the stock exchange until such time as elections are held in accordance with this Act:

Provided that the stock exchange shall nominate only four members to act as the first directors;

- (f) the proposed plan for the segregation of the commercial and regulatory functions of the stock exchange;
- (g) the draft memorandum and articles of association of the stock exchange;
- (h) a detailed five year development plan for the stock exchange together with the capital expenditure estimate and the sources of finance:

Provided that the items listed at clauses (b) to (h) of sub-section (1) shall be submitted to the Commission after being duly approved by the Board of Directors of the stock exchange.

(2) Within thirty days of receipt of the information submitted by a stock exchange under sub-section (1), the Commission shall, subject to the provisions of sub-section (4), approve and communicate to the stock exchange the following, namely:—

- (a) the revaluation of the assets and liabilities of the stock exchange;
- (b) the authorized and the paid, up capital of the stock exchange;
- (c) the names of members of the stock exchange proposed to be the initial shareholders of the stock exchange;
- (d) the number of shares that may be allotted to each member of the stock exchange for consideration other than cash;
- (e) the names of members nominated to act as first directors of the stock exchange;

- (f) the plan for the segregation of the commercial and regulatory functions of the stock exchange;
- (g) the memorandum and articles of association of the stock exchange; and
- (h) the approved development plan.

(3) At the time of communicating the items listed in sub-section (2), the Commission shall also communicate to the stock exchange the names of six persons to be nominated by the Commission to act as the first directors of the stock exchange with a direction to elect one of these persons as the Chairman of the Board of Directors of the stock exchange.

(4) The Commission may, if it deems necessary in the interest of the capital markets, make appropriate amendments in any of the matters mentioned in sub-section (2), other than the re-valuation carried out by the firm of Chartered Accountants, before granting its approval:

Provided that before making any substantive amendments, the Commission shall inform the stock exchange of such amendments, and if so required by the stock exchange in writing, provide an opportunity of hearing to the stock exchange:

Provided further that any decision of the Commission under this sub-section (4) shall be final and binding.

(5) The valuation of the stock exchange as mentioned in clause (a) of sub-section (1), shall be provided to the Commission in a sealed envelop and the Commission shall keep the envelop sealed till the sale of shares to a strategic investor, in which case it shall return the sealed envelop to the stock exchange. In case there is no sale of shares to a strategic investor in the manner provided in this Act, the Commission shall open the envelop in accordance with provisions of section 12.

(6) If a stock exchange fails to comply with any or all of the requirements of sub-section (1) within the stipulated time or any extension thereof, the Commission shall undertake or decide as the case may be, the matters listed in sub-section (1) and communicate the same to the stock exchange for further compliance. Any action taken by the Commission in pursuance of this sub-section shall be final and binding on the stock exchange and its members:

Provided that if the Commission engages a renowned international investment bank for the purposes of clause (a) of sub-section (1) or a firm of Chartered Accountants for the purposes of clause (b) of sub-section (1), the cost of such valuation, including all ancillary costs, shall be borne by the stock exchange being valued.

Within thirty days of being granted approval under sub-section (2) of section 4 or a determination under sub-section (6) of section 4, the stock exchange shall—

- (a) adopt in a meeting of its members by a special resolution the approved memorandum and articles of association;
- (b) allot shares to the members approved to be the initial shareholders in the approved numbers:

Provided that all shares will be allotted in a dematerialized format and shall not, at any time or for any reason, be convertible into physical format;

- (c) deposit in a blocked account sixty percent of shares allotted to each initial shareholder and hold these in the blocked account until such time as these shares are disposed of in accordance with section 12;
- (d) issue a certificate to each initial shareholder certifying the number of his shares held in the blocked account; and
- (e) issue a TRE certificate to each initial shareholder.

(2) Willful failure of a stock exchange to comply with any of the requirements of this section shall be an offence under this Act.

(3) Within seven days of the adoption of the memorandum and articles of association as aforesaid, the stock exchange shall deliver to the Registrar,—

- (a) a certified copy of the special resolution by which the memorandum and articles of association have been adopted;
- (b) a certificate from the auditors of the stock exchange certifying that all shares have been allotted to the initial shareholders in a dematerialized format; and
- (c) a certificate from CDC that sixty percent of the shares allotted to each initial shareholder have been deposited in a blocked account in accordance with clause (c) of sub-section (1) of section 5.

6. Procedure upon receiving memorandum of the stock exchange.—(1) Within seven days of receipt of the information mentioned in sub-section (3) of section 5 and after confirmation from the Commission, the Registrar

shall issue a certificate of re-registration to the stock exchange as evidence of its change in status from a company limited by guarantee to a public company limited by shares.

(2) The directors of the stock exchange holding office on the date of corporatisation shall automatically cease to hold such office on receipt of the certificate of re-registration by the stock exchange, and shall stand replaced by the first directors.

7. Effect of corporatisation.—(1) All assets and liabilities of the stock exchange as at the date of corporatisation shall remain the assets and liabilities of the stock exchange.

- (2) The corporatisation of the stock exchange shall not—
- (a) create a new legal entity or prejudice or affect its identity or continuity;
 - (b) adversely affect the registration of the stock exchange under section 5 of the Securities Ordinance;
 - (c) prejudice or affect the continuity of its undertakings;
 - (d) render defective or affect any legal, disciplinary or other proceedings brought by or against it prior to the date of corporatisation;
 - (e) affect the validity of any regulation made by the stock exchange or the Commission in pursuance of section 34 of the Securities Ordinance;
 - (f) affect any instruction, order, approval, notification, direction, act, requirement, condition, consent, guideline, circular, undertaking, declaration, indemnity, waiver, exemption, restriction or decision or other document howsoever called, made, given or done by the stock exchange or the Commission in accordance with or in pursuance of the Companies Ordinance or the Securities Ordinance or any other law or rules and regulations made under such law in force at the date of corporatisation, and such instruction, order, approval, notification, direction, act, requirement, condition, consent, guideline, circular, undertaking, declaration, indemnity, waiver, exemption, restriction or decision or other document shall remain valid, binding and have effect in relation to the persons to whom such instruction, order, approval, notification, direction, act, requirement, condition, consent, guideline, circular, undertaking, declaration, indemnity, waiver, exemption, restriction or decision is applied until it is amended repealed or otherwise expires;

- (g) affect any right, privilege, obligation or liability acquired by or accrued to the stock exchange under the provisions of the Companies Ordinance or the Securities Ordinance or any other law or rules and regulations made under any such law in force at the date of corporatisation and shall not affect any legal, disciplinary or other proceedings, remedy, inspection, investigation or inquiry in relation to such right, privilege, obligation or liability and any such legal, disciplinary or other proceedings, remedy, inspection, investigation or inquiry may be instituted, continued or enforced after the date of corporatisation; and
- (h) affect any action that has been taken by the stock exchange for any breach of its regulations.

(3) Upon the conversion of the stock exchange from a company limited by guarantee to a company limited by shares, the liability of each member of the stock exchange as guarantor shall be deemed to be extinguished immediately.

CHAPTER-III

DEMUTUALIZATION

8. **Demutualization.**—A stock exchange shall stand demutualised when the Registrar has issued a certificate of re-registration to the stock exchange in accordance with section 6.

9. **Rights attached to shares in the blocked account.**—(1) All rights in respect of the sixty percent shares of each initial shareholder deposited in the blocked account shall vest and be exercised in the following manner, namely:—

- (a) the right to receive dividends, bonus shares, rights shares and the proceeds of sale of these shares shall vest in the initial shareholders;

Provided that the bonus shares and right shares if any, shall be added to the blocked shares of the initial shareholder and shall be disposed of along with those blocked shares in the manner provided in this Act;

- (b) the right to sell these shares shall vest in the stock exchange to be exercised in the manner provided in section 12; and
- (c) the right to exercise the voting power attached to these shares shall remain suspended till the time of sale of these shares in accordance with section 12.

(2) The blocked account shall be operated by the board of directors in the manner prescribed by the Commission.

10. Board of a stock exchange after demutualization and the election of directors.—(1) At any time after the date of demutualization, TRE certificate holders or connected persons of TRE certificate holders shall not hold the majority on the board of directors of any stock exchange, or hold more than forty percent of the total paid up capital of the stock exchange.

(2) Within thirty days of the date of demutualization, the stock exchange shall hold an election of directors:

Provided that the elections shall only be in respect of the seats held by the first directors nominated by the stock exchange. The nominees of the Commission shall continue to hold office until such time as they stand replaced on a directive of the Commission to allow co-option of nominees of the strategic investor, or in subsequent elections by shareholder interest of the strategic investor and financial institutions or representatives of the general public as the case may be.

(3) After the date of demutualization, the chairman of the Board of any stock exchange shall always be from amongst those directors who do not represent the TRE certificate holders or their connected persons.

11. Effect of demutualization.—(1) From the date of demutualization, notwithstanding anything to the contrary contained in any other law for the time being in force or any agreement, award, judgment, decree or other instrument for the time being in force, the demutualization of the stock exchange shall become binding on all persons and authorities having any contractual or statutory, right, power, obligation or liability in connection with the stock exchange.

(2) The demutualization shall not adversely affect the registration of the stock exchange under section 5 of the Securities Ordinance.

(3) A shareholder may or may not be a TRE certificate holder of the stock exchange after demutualization.

(4) A TRE certificate holder may or may not be a shareholder of the stock exchange after demutualization.

12. Divestment and issue of further shares.—(1) The Commission may at any time not later than two years from the date of demutualization direct the stock exchange and its shareholders to do one or more of the following, namely:-

- (a) to enter into an agreement with a strategic investor, within one year of such direction, for the sale of not more than forty percent of its total issued share capital out of the shares lying in the blocked account;

- (b) to sell to the general public through an offer for sale, not less than twenty per cent of its total issued share capital out of the shares lying in accordance with applicable laws;
- (c) to enter into agreements with and to sell to local financial institutions any shares remaining in the blocked account after sale of shares to the strategic investor and the general public, within one year of the direction:

Provided that the Commission may extend the period for compliance upon an application by the stock exchange setting out the reasons for not being able to comply with the said order within the specified time.

(2) A stock exchange may, by special resolution issue further shares carrying extra voting rights to a strategic investor with the prior written approval of the Commission.

(3) In case if no agreement for the sale of shares of the stock exchange is reached with any strategic investor within one year of the direction given by the Commission or within such time as may be extended by the Commission, the Commission may open the sealed envelop containing the valuation of the shares.

(4) Upon opening the sealed envelop, the Commission may take such steps or give such directions as may be necessary for achieving the sale of shares, including but not limited to—

- (a) ordering the sale of shares to a strategic investor who had earlier made an offer to purchase the shares, if the price offered by such strategic investor was equal to or more than the valuation of the shares contained in the sealed envelop; or
- (b) ordering a fresh auction of the shares and selling to the highest bidding strategic investor or financial institutions such number of shares and in such manner as the Commission may specify; or
- (c) ordering a revaluation of the stock exchange at the cost of the stock exchange and in such manner as the Commission may specify.

(5) Notwithstanding anything contained in sub-sections (1) to (4), if a stock exchange fails to comply with any or all of the directions given to the stock exchange under sub-section (1), the Commission may determine and conclude the matters listed in sub-section (1) in such manner as may be prescribed and any such

determination by the Commission shall be final and binding on the stock exchange, its shareholders including the initial shareholders and the CDC.

(6) Refusal by any initial shareholder to accept an agreement duly entered in accordance with the provisions of this section 12, or failure by any person to comply with any directions given by the Commission, or the willful failure of the committee to sell the shares if the offer price received for such shares is equal to or more than the approved valuation, shall be an offence.

13. Sale and purchase of shares by a strategic investor and a financial institution.—(1) A strategic investor or a financial institution who acquires shares under section 12 may sell its shareholding in a stock exchange only to another strategic investor or a financial institution as the case may be, with the prior written approval of the Commission.

(2) A strategic investor may acquire such further shares of a stock exchange in which it is a strategic investor to enable it to increase its shareholding up to fifty one per cent of the total paid up capital, subject to the following conditions, namely:—

- (a) the prior approval of the Commission is obtained for such further acquisition of shares;
- (b) the further acquisition is made not less than three years after it acquires shares under section 12; and
- (c) the shares are purchased from the market by making a public offer in a transparent manner.

(3) No financial institution who has acquired shares under section 12 may acquire any further shares from the general public:

Provided that a financial institution may acquire shares from another financial institution with prior approval of the Commission.

(4) The Commission may, by order in writing and reasons to be recorded, relax any one or all of the restrictions provided in sub-sections (1) to (3) after four years of date of demutualization.

(5) The provisions of the Listed Companies (Substantial Acquisition of Voting Shares and Takeovers) Ordinance, 2002 (CIII of 2002) shall not apply to any acquisition of voting shares of a stock exchange by a strategic investor.

14. **Powers of the Commission to require divestment.**—(1) If an initial shareholder, a member of the general public (including a company) or a TRE certificate holder directly or indirectly acquires more than one per cent of the shares of a stock exchange, the Commission may direct such person to divest these shares in a manner as may be specified by the Commission from time to time or on a case to case basis.

Explanation.—For the purposes of this sub-section a person shall be deemed to have acquired shares indirectly if these shares have been acquired by a connected person of such person.

(2) If a financial institution other than a financial institution who acquire shares under section 12, directly or indirectly acquires more than five per cent of the shares of a stock exchange, the Commission may direct such financial institution to divest these shares in a manner as may be specified by the Commission from time to time or on a case to case basis.

Explanation.—For the purposes of sub-section (2) a financial institution would be deemed to have acquired shares indirectly if these shares have been acquired by a connected person of such financial institution.

(3) The limits on the holding of shares by persons mentioned in sub-sections (1) and (2) may be amended by the Commission from time to time if deemed necessary.

(4) Willful failure to comply with any provisions of this section or any directions issued by the Commission hereunder shall be an offence under this Act.

15. **Listing of shares.**—(1) The shares of a stock exchange shall be listed, on any such stock exchange and within any such time as the Commission may prescribe in consultation with the board of directors of the stock exchange which is to be listed.

(2) Where the shares of a stock exchange are listed on itself, the Commission shall act as the front line regulator of such stock exchange for such listing, and notwithstanding anything contained in any other law, shall have the necessary powers and authority to regulate and administer all the laws, rules and regulations prescribed for such matter.

(3) The self-listing of the stock exchanges under this section shall be administered and managed by the Commission in such manner as may be prescribed.

(4) A stock exchange shall make an application for the listing of its shares on itself in the manner and form, and subject to such conditions, as the Commission may prescribe.

(5) Upon receipt of an application under sub-section (4), the Commission may if it is satisfied, after making such inquiry and receiving such further information as it may consider necessary, that the application fulfils the prescribed conditions for listing, order the listing of the shares.

(6) Willful failure of a stock exchange to comply with any prescribed condition or direction of the Commission shall be an offence under this Act.

16. Trading rights.—(1) An initial shareholder who is issued a TRE certificate under section 5 shall, if not already registered as a broker with the Commission, be entitled to be so registered not later than two years from the date of demutualization provided that he meets the fit and proper criteria:

Provide further that such TRE certificate holder shall commence business not later than six months from the date of registration as a broker.

(2) A TRE certificate issued under section 5, may only be transferred once in a manner as may be prescribed:

Provided that transfer of the TRE certificate by a registered broker shall result in the cancellation of his registration as broker.

(3) Any fit and proper person who acquires a TRE certificate from an initial shareholder in accordance with sub-section (2), shall get himself registered as a broker not later than six months from the date of acquiring the TRE certificate, and shall commence business not later than twelve months from the date of acquiring the TRE certificate.

(4) A stock exchange shall not issue new TRE certificates to any person until 30th June, 2010 unless two-third majority of TRE certificate holders of a stock exchange decide otherwise.

(5) After 1st July, 2010 till 31st December, 2019, a stock exchange shall offer for issuance fifteen TRE certificates each year in the manner prescribed by the Commission.

(6) After 2019, no restriction shall be placed on the issuance of TRE certificates by the stock exchange, and any person who meets the fit and proper criteria for registration as a broker shall be eligible to be issued a TRE certificate.

(7) Any person who is issued a new TRE certificate shall get himself registered as a broker not later than six months from the date of issuance of such TRE certificate and shall commence business not later than three months from the date of registration as a broker.

(8) After the date of demutualization, only a private company or a public company as defined in the Companies Ordinance, 1984 (XLVII of 1984) shall be eligible to obtain registration as a broker on a stock exchange:

Provided that any TRE certificate holder who is registered as a broker on a stock exchange on the date of commencement of this Act shall not be required to convert in to corporate brokerage house till one year from the commencement of this Act.

Explanation.—For the purpose of this sub-section the expression “Corporate brokerage house” means a private company or a public company which is registered as a broker.

(9) All corporate brokerage houses shall comply with the provisions of the Code of Corporate Governance issued by the Commission as amended from time to time.

(10) Except as provided in sub-section (2), all TRE certificates shall be non-transferable.

(11) Failure of a person, holding a TRE certificate including an initial shareholder, to get himself registered as a broker or commence business within the different periods specified in this section, or in the case of an initial shareholder, to transfer the TRE certificate within two years from the date of demutualization, shall result in the lapse of such TRE certificate.

(12) The Commission shall prescribe the manner, form and procedures for the transfer and issuance of any TRE certificate in any stock exchange.

CHAPTER-IV

INTEGRATION

17. **Integration without application to the Court.**—(1) Any two or more stock exchanges may, upon filing of a scheme of integration, and after compliance with such procedures as may be prescribed, be integrated by an order of the Commission, so as to transfer and vest in the successor stock exchange (“the successor stock exchange”) all the assets, undertakings and liabilities of any stock

exchange which, upon such integration, is proposed to cease to exist ("the transferor stock exchange"). Stock exchanges desirous of integrating may also do so by creating a new legal entity to which the assets, undertakings and liabilities of each of the stock exchanges may be transferred.

(2) A scheme of integration may only be submitted to the Commission under sub-section (1) after it has been approved by a special resolution of the shareholders of each stock exchange.

(3) The successor stock exchange, if already registered as a stock exchange, shall not be required to apply to the Commission for fresh registration. Where however, a new legal entity is created as a result of integration, such entity shall apply for registration as a stock exchange under section 5 of the Securities Ordinance. The registration granted to any existing stock exchange which ceases to exist after the integration shall lapse upon such integration.

18. Power of the Commission to approve a scheme of integration.—

(1) On receipt of a scheme of integration under section 17, the Commission may approve the scheme in principle. Upon such approval, the stock exchanges shall publish the scheme of integration in two daily newspapers of national coverage, requiring the stakeholders to intimate directly to the Commission in writing, within the 15th day from the date of such publication, the reasons, if any, why the Commission should not approve the scheme of integration. Upon receipt of any written objections to the scheme of integration, the Commission shall provide a reasonable opportunity of being heard to such objectors.

(2) The Commission may make such inquiry and obtain such further information, as it may deem necessary, in order to determine as to whether to finally approve the scheme of integration or not.

(3) The Commission may, if satisfied that the requirements of the prescribed procedure have been complied with, approve the scheme of integration with such modifications, if any, as it may deem appropriate, and specify the effective date of integration.

(4) Where a scheme of integration is approved under sub-section (3), it shall be posted on the website of the Commission and published in the official Gazette. In addition, the stock exchange shall publish the approved scheme in two daily newspapers of national circulation.

(5) With effect from the date of the order of approval of the scheme of integration, notwithstanding anything to the contrary contained in any other law for the time being in force or any agreement, award, judgment or decree, the scheme

of integration shall have effect and shall be binding on all persons interested in the transferor stock exchange or the successor stock exchange (or the new legal entity as the case may be) including all shareholders, stakeholders and employees of the stock exchanges and all persons having an interest in any asset, undertaking or liability of either the transferor stock exchange or the successor stock exchange (or the new legal entity as the case may be).

(6) Notwithstanding anything to the contrary contained in any other law for the time being in force, with effect from the date of the order approving the scheme of integration, all the assets, undertakings and liabilities of the transferor stock exchange shall, in accordance with the scheme of integration, stand transferred to, and vest in, the successor stock exchange, and the transferor stock exchange shall, with effect from the date of such order, cease to exist.

(7) The stakeholders of the transferor stock exchange shall, with effect from the date of the order approving the scheme of integration, become the stakeholders of the successor stock exchange or the new legal entity as the case may be.

(8) The Commission may make such further or consequential orders or give such directions, as it deems necessary, in order to effect the integration of the stock exchanges in accordance with the approved scheme of integration.

(9) Where the Commission is satisfied that it would not be in the interest of either the capital and stock markets or the general public to approve the scheme, it may by an order in writing, reject the scheme:

Provided that the Commission shall, prior to issuance of such order, give a reasonable opportunity of being heard to the stock exchanges seeking integration.

CHAPTER-V

OFFENCES AND PENALTIES

19. **Powers of the Commission.**—(1) Where the Commission is satisfied that a stock exchange, a director of a stock exchange, committee member, shareholder, TRE certificate holder or any other person, has *prima facie* committed an offence under this Act or has contravened any provision of this Act or the regulations hereunder, the Commission may provide a reasonable opportunity of hearing to the stock exchange, the director, a shareholder TRE certificate holder or committee member as the case may be.

(2) If after giving a reasonable opportunity of hearing to the stock exchange, its directors, shareholders, TRE certificate holders or committee member as the case may be, the Commission is satisfied that any of the aforementioned persons has knowingly and willfully committed an offence under this Act, it may,—

- (a) direct the stock exchange to pay to the Commission by way of penalty a sum not exceeding twenty million rupees or suspend or cancel the registration of the stock exchange;
- (b) direct each director responsible for such failure to pay to the Commission from his own sources by way of penalty a sum not exceeding one million rupees or suspend or remove such director from the Board of the stock exchange;
- (c) direct each shareholder guilty of an offence under this Act to pay to the Commission from his own sources by way of penalty a sum not exceeding one million rupees;
- (d) direct each TRE certificate holder guilty of an offence under this Act to pay to the Commission from his own sources by way of penalty a sum not exceeding one million rupees; and
- (e) direct each committee member guilty of an offence under this Act to pay to the Commission from his own sources by way of penalty a sum not exceeding one million rupees.

(3) Any sum directed by the Commission to be paid under sub-section (2) shall be recoverable by the Commission as arrears of land revenue.

(4) Notwithstanding anything to the contrary contained herein, the Commission may, if it is satisfied that a TRE certificate holder, whether or not he is a shareholder of the stock exchange, has wilfully and knowingly failed to comply with the provisions of this Act, suspend or cancel the TRE certificate.

CHAPTER-VI

MISCELLANEOUS

20 Restriction on amendments to the Memorandum and Articles and further issue of capital.—(1) A stock exchange shall not make any amendments to its Memorandum and Articles of Association without the prior written approval of the Commission.

(2) A stock exchange shall not issue further shares without the prior written approval of the Commission.

21. Winding up of a stock exchange.—A stock exchange shall not commence any proceedings for winding up, whether voluntary or otherwise, without the prior written approval of the Commission:

Provided that notwithstanding anything contained in any other law for the time being in force, the Commission shall have the power to take all necessary steps to rehabilitate a stock exchange that is facing financial or operational problems, in a manner as may be prescribed.

22. Prohibition on sale etc. of assets of the stock exchange.—No stock exchange shall sell immovable assets owned by the stock exchange at the date of corporatisation without the prior approval of the Commission and shall ensure that all assets are utilized in furtherance of the business of the stock exchange.

23. Power to make regulations.—The Commission, may, by notification in the official Gazette, make regulations for carrying out the purposes of this Act.

24. Power to give directions.—(1) The Commission shall have the power to give such directions to a stock exchange, either jointly or severally, or to a shareholder, or a committee member, or a TRE certificate holder as the Commission deems necessary for achieving the purposes of this Act.

(2) The stock exchange, shareholder, TRE certificate holder or committee member to which a direction is issued under this section or any other section of this Act shall be bound to comply with the same and failure of a stock exchange, shareholder, TRE certificate holder or committee member to comply with any such direction shall be an offence under this Act.

25. Act to override other laws.—The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

26. Savings.—Save as otherwise provided in this Act, nothing in this Act shall curtail or deem to affect or curtail the powers of the Commission under the Securities and Exchange Commission of Pakistan Act, 1997 (XII of 1997), the Companies Ordinance, the Securities Ordinance or any other law for the time being in force.

27. **Removal of difficulty.**—If any difficulty arises in giving effect to the provisions of this Act, the Federal Government may, not inconsistent, with the provisions of this Act, give such directions as it may consider necessary for the removal of such difficulty.

STATEMENT OF OBJECTS AND REASONS

The three stock exchanges presently operational in Pakistan are the Karachi Stock Exchange (Guarantee) Limited (KSE), Lahore Stock Exchange (Guarantee) Limited (LSE) and Islamabad Stock Exchange (Guarantee) Limited (ISE). All the three stock exchanges are operating as non-profit companies with a mutualized structure. In a mutualized structure the members have the ownership as well as trading rights. This structure inherently creates conflict of interest and results in lack of transparency in the operations of the stock exchange.

Demutualization is the process of converting a mutually owned company to a company owned by the shareholders. This process involves not only corporatization, which is the conversion of a stock exchange limited by guarantee into the one limited by shares but also it segregates ownership and trading rights. Hence demutualization brings balance among interest of different stakeholders in the corporate and governance structure of a stock exchange.

In order to compete with other stock exchanges, efficient decision making structures and large amounts of funds for investment in technological infrastructure is vital. The mutual ownership structure of the exchanges has been an obstacle in both decision making and access to capital. This aspect has been addressed through demutualization of stock exchanges which is now a well established global trend.

Apart from attracting capital, a demutualized/ corporatized entity would result in improvement in the governance structure, segregation of regulatory functions from commercial functions and separation of trading rights and ownership rights. Demutualization /corporatization would also assist in attracting international strategic partners.

A separate Demutualization Legislation is required to be enacted to provide the necessary legal and regulatory framework for demutualization under one stand-alone law, as opposed to the stock exchanges having to comply with a multi-layered regulatory regime.

MINISTER-IN-CHARGE.