

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

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BILL

further to amend the State Bank of Pakistan Act, 1956

WHEREAS it is expedient further to amend the State Bank of Pakistan Act, 1956 (XXXIII of 1956), in the manner and for the purposes hereinafter appearing;

It is hereby enacted as under:-

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

(2) It shall come into force at once.

2. Substitution of preamble, Act XXXIII of 1956.- In the State Bank of Pakistan Act, 1956 (XXXIII of 1956), hereinafter referred to as the said Act, for the preamble, the following shall be substituted, namely:-

"WHEREAS it is necessary to provide for the constitution of State Bank to achieve domestic price stability by way of regulating the monetary and credit system of Pakistan and, without prejudice to said primary objective, contribute to the stability of the financial system of Pakistan and supporting the general economic policies of the Federal Government to foster development and fuller utilization of the country's productive resources;"

3. Amendments of section 2, Act XXXIII of 1956.- In the said Act, in section 2,-

(a) after the omitted clause (a), the following new clause shall be inserted, namely:—

“(aa) “advanced degree” means a postgraduate qualification;”;

(b) after clause (ff), the following new clause shall be inserted, namely:—

“(ffa) “development finance activity” means to undertake an activity to promote— any activity of any priority sector such as agriculture, small and medium enterprises, housing or other such sectors;”;

(c) after clause (i), the following new clause shall be inserted, namely: —

(ia) “international reserves” mean the Bank’s foreign exchange reserves;”;

(d) after clause (k), the following new clauses shall be inserted, namely: —

“(ka)”monetary liabilities” means the total liabilities of the Bank as reflected in the annual audited financial statements at the balance sheet date as reduced by the sum of following liabilities of the same date, namely: —

- (i) deposits of the Government;
- (ii) amounts owing to the International Monetary Fund, the World Bank, Asian Development Bank or other such institutions;
- (iii) deposits of foreign central banks or sovereign wealth funds;
- (iv) utilized swap lines of foreign central banks; and
- (v) balances of participant central banks under any clearing union;

(kb) “price stability” means the maintenance of low and stable inflation guided by the government’s medium-term inflation target;

(kc) “recognized university” means a university or equivalent academic institution recognized by the Higher Education Commission of Pakistan;”;

(e) after clause (o), the following new clause shall be inserted, namely: —

“(oa) “Government” means the Federal or a Provincial Government or a Local Government, as the case may be;”.

4. Amendment of section 3, Act XXXIII of 1956. —In the said Act, in section 3, after sub-section (2), the following new sub-section shall be added, namely:-

“(3) Subject to this Act, the Bank shall have the power to acquire, hold and dispose of movable and immovable property of any kind, to enter into contracts and to undertake all activities necessary for the achievement of its objectives.”.

5. Substitution of section 4, Act XXXIII of 1956.- In the said Act, for section 4, the following shall be substituted, namely: —

"4. Share capital.- (1) The authorized capital of the Bank shall be five hundred billion Rupees, divided into five billion shares of one hundred Rupees each. The authorized capital may be increased by the resolution of the Board, subject to the approval of the Federal Government.

(2) The paid-up capital of the Bank shall be one hundred billion Rupees, divided into one billion shares of one hundred Rupees each, which shall be made up through issuance of bonus shares by capitalizing of profits or general reserve or through subscription of shares in cash by the Federal Government.

(3) The capital shall be fully paid-up and held exclusively by the Federal Government and shall not be transferable to any other person or entity.

(4) The Board may, with the prior approval of the Federal Government, increase the paid-up capital from time to time by a resolution, which shall be made up in the same manner as specified in sub-section (2).

(5) No reduction in either the authorized capital or paid-up capital shall be made at any time.

(6) The nominal value, issue price, the manner in which the new shares may be issued and their assignment to the register of shareholders shall be determined by the Board.

(7) Notwithstanding the amount of paid-up capital prescribed in sub-section (2), the paid-up capital and general reserves of the Bank shall increase to eight percent of its monetary liabilities through allocation from the distributable profit as determined in section 42.”.

6. Insertion of new sections, Act XXXIII of 1956. — In the said Act, after section 4, substituted as aforesaid, the following new sections 4A, 4B and 4C shall be inserted, namely:-

"4A. Re-capitalization.- In the event that in the audited annual financial statements of the Bank, the sum of paid-up capital and general reserves falls below zero, then—

- (a) the Board, with the advice of the external auditors of the Bank, shall examine and prepare a report on the causes and extent of the shortfall within a period not exceeding thirty calendar days;
- (b) in the event that the Board approves the report under clause (a), the Bank shall request the Federal Government for a capital contribution to remedy the deficit with a view to restoring the capital to the level of prescribed paid-up capital under section 4; and
- (c) upon receipt of the request under clause (b), the Federal Government shall, within a period not exceeding thirty calendar days, transfer to the Bank the necessary amount in cash or in negotiable debt instruments with a specified maturity issued at prevailing market-related interest rates.

4B. Objectives.- (1) The primary objective of the Bank shall be to achieve and maintain domestic price stability.

(2) Without prejudice to the Bank's primary objective, the Bank shall contribute to the stability of the financial system of Pakistan.

(3) Subject to sub-sections (1) and (2), the Bank shall support the Government's general economic policies with a view to contributing to fostering the development and fuller utilization of Pakistan's productive resources.

4C. Functions of the Bank.- The functions of the Bank to achieve the objectives set forth in section 4B and as further described in this Act, shall be to—

- (a) determine and implement monetary policy;
- (b) formulate and implement the exchange rate policy;
- (c) carry out and disseminate research relevant to Bank's objectives and functions;
- (d) hold and manage all international reserves of Pakistan;
- (e) issue and manage the currency of Pakistan, including regulating their denominations;
- (f) collect and produce statistics relevant to the Bank's objectives and functions;
- (g) operate and exercise oversight over payment systems;
- (h) license, regulate and supervise scheduled banks and financial institutions that fall under the domain of the Bank as further specified in this Act or any other Act;
- (i) resolve scheduled banks and other financial institutions that fall under the domain of the Bank as further specified in this Act or any other Act;
- (j) adopt and implement macro-prudential policy measures for scheduled banks and financial institutions that fall under the domain of the Bank;
- (k) act as the banker, financial adviser and fiscal agent to the Government, and its agencies, on the mutually agreed terms and conditions;
- (l) promote financial inclusion in Pakistan;
- (m) develop financial market infrastructures;
- (n) participate in international councils and organizations, including multilateral, international financial institutions,
- (o) cooperate with domestic and foreign public entities, concerning matters related to its objectives and functions; and
- (p) carry out any ancillary activities incidental to the exercise of its objectives under this Act."

7. Substitution of sections 9, 9A, 9B and 9C, XXXIII of 1956.- In the said Act, for sections 9, 9A, 9B and 9C, the following shall be substituted, namely:-

"9. Board of Directors.- (1) Subject to section 9D, oversight of the affairs and functions of the Bank shall be entrusted to the Board of Directors, which shall supervise the management and the Bank's administration, operations and have the right of access to all the activities of the Bank.

(2) The Board of Directors shall consist of—

- (a) the Governor;
- (b) Secretary, Finance Division, Government of Pakistan without the right to vote ; and
- (c) eight non-executive Directors, including at least one from each Province.

(3) The Deputy Governors shall have the right to attend the Board meetings without the right to vote.

(4) The Governor shall be the Chairperson of the Board. In the Governor's absence, the Board shall be chaired by the Deputy Governor in charge of the Board meeting agenda items:

Provided that when the Deputy Governor chairs the Board meeting in absence of the Governor, the Deputy Governor shall have the right of casting vote.

(5) The non-executive Directors shall be eminent professionals each of whom is well-known for his integrity, expertise, and experience in the fields of economics, financial services, banking, law, information technology, risk management or accountancy to perform the oversight. They shall have an advanced degree from a recognized university or hold professional accreditation, and relevant experience in any such fields for not less than ten years.

9A. Powers of the Board.- (1) The Board, with the exception of the powers entrusted to the Monetary Policy Committee under section 9D, shall perform the following functions, namely: -

- (a) define, approve and determine the general internal policies and rules of the Bank regarding the execution of its functions and approve internal rules for their implementation;
- (b) formulate and oversee foreign exchange reserve management, strategic investment and risk policy;
- (c) approve the annual budget of the Bank;

- (d) approve the annual report and financial statements of the Bank;
- (e) adopt and oversee the Bank's policies on internal and external audit, compliance, internal controls and risk management;
- (f) adopt and oversee the system of financial reporting, accounting policies, information technology and security in the Bank; and
- (g) establish committees of the Board to assist in oversight functions."

9B. Meetings of the Board of Directors.— (1) At least six meetings of the Board shall be held in a financial year and as frequently as is necessary for the purpose of discharging its responsibilities under this Act.

(2) Meetings of the Board shall be convened by the Chairperson or at the written request of any three members of the Board.

(3) The quorum for a Board meeting shall be four members, including the Chairperson.

(4) Each member of the Board shall have one vote and in the event of an equality of votes, the person chairing the meeting shall be entitled to a casting vote.

(5) Except as otherwise provided in this Act, decisions of the Board shall be adopted by a majority of the Board members present and voting at the meeting.

(6) A resolution in writing together with the necessary documents, approved by all the directors of the Board for the time being entitled to receive notice of a meeting of the Board shall be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held. A resolution under this sub-section shall be noted at a subsequent meeting of the Board and made part of the minutes of such meeting.

(7) Any or all the documents sent to the Directors, including by email or any other electronic mode shall be considered a valid document.

(8) The acts done by the Board shall be valid notwithstanding the fact that the appointment of any person as a member of the Board is defective or any person was disqualified for such appointment.

9C. Prohibition on the Government borrowing.—(1) The Bank shall not extend any direct credits to or guarantee any obligations of the Government, or any government-owned entity or any other public entity.

(2) The prohibition laid down in sub-section (1) shall not apply to government-owned or publicly-owned banks and other regulated entities, which shall be given the same treatment as privately-owned banks.

(3) The Bank shall not purchase securities issued by the Government or, any government-owned entity or any other public entity on the primary market. Nonetheless the Bank may purchase such securities in the secondary market.

(4) The Bank shall not guarantee any loan, advance or investment entered into by the Government, any government-owned entity or any other public entity:

Provided that the existing outstanding debt owed to the Bank in the form of loans, advances or Government securities purchased on the primary market, at the time of the commencement of the State Bank of Pakistan (Amendment) Act, 2021 shall be retired in accordance with the terms and conditions under which such outstanding debts were extended. In compliance with the prohibition of monetary financing under this section no roll-over or re-profiling of such existing outstanding debt of the Government owed to the Bank shall be permitted.

(5) The guarantees issued by the Bank to secure the obligations of the Government outstanding on the commencement of the State Bank of Pakistan (Amendment) Act, 2021, shall not be increased, but can be rolled-over in accordance with the terms and conditions under which such outstanding guarantees were issued.

(6) The amount of overdraft outstanding against Pakistan Railways shall be converted into long term debt with a duration of eight years and remunerated at market interest rates.

8. Amendments of section 9D, Act XXXIII of 1956.- In the said Act, in section 9D,—

- (a) in sub-section(1), in clause (d), the expression "who shall be economist, to be appointed by the Federal Government on the recommendation of the Board" shall be omitted;
- (b) sub-sections (2) and (3) shall be omitted;
- (c) for sub-section (4), the following shall be substituted, namely:-

"(4) External members shall be eminent professionals or academics from the fields of economics, finance or banking, having an advanced

degree from a recognized university and relevant experience in any such fields for at least ten years.";

- (d) for sub-section (5), the following shall be substituted, namely: —

"(5) The Monetary Policy Committee shall determine its own regulations of procedure."; and

- (e) for sub-section (6), the following shall be substituted, namely: —

"(6) The quorum for the Monetary Policy Committee meeting shall be four members including at least one of whom shall be the Governor as Chairperson, or in his absence, the relevant Deputy Governor as nominated by the Governor, one non-executive member of the Board, one external member and one senior executive of the Bank. The decision shall be taken by a majority of members present and voting, with the Chairperson having a casting vote.".

9. Amendment of section 9E, Act XXXIII of 1956.- In the said Act, in section 9E,—

- (a) for the expression "The Monetary Policy Committee shall, without prejudice to its powers and functions and those of the Bank, support the general economic policies of the Federal Government and", the expression "In order to achieve the objectives of the Bank, the Monetary Policy Committee" shall be substituted; and
- (b) in clause (a), the expression, ", support and recommend" shall be omitted.

10. Insertion of new sections 9F, and 9G, Act XXXIII of 1956.- In the said Act, after section 9E, amended as aforesaid, the following new sections shall be inserted, namely:-

9F. Executive Committee.- (1) An Executive Committee shall be established with the power to formulate policies related to the Bank's core functions as well as those related to administration and management matters, excluding those matters falling in the purview of the Monetary Policy Committee, or the Board of Directors.

(2) The Executive Committee shall consist of the Governor, the Deputy Governors, Executive Directors, and as needed other senior officials. The Governor and the Deputy Governors shall have the right to vote on decisions taken by the Executive Committee. The Governor shall have the casting vote.

(3) The Executive Committee shall adopt its own rules of procedure.

(4) The Executive Committee shall be chaired by the Governor and in the Governor's absence, by the Deputy Governor in charge of the Executive Committee meeting agenda items.

(5) The quorum for an Executive Committee meeting shall be two members, including the Chairperson.

(6) The Executive Committee may delegate, for implementation of its decisions, any of its powers to another committee of the Bank, or to another official of the Bank.

(7) Any residual matters that have not been explicitly addressed in this Act or allocated to the Board of Directors or the Monetary Policy Committee, if they require a policy decision shall be exercised by the Executive Committee or otherwise the Governor.

9G. Governor and Minister of Finance to establish liaison.- The Governor and the Finance Minister shall establish a close liaison through a mutual agreement with each other and shall keep each other fully informed on all matters which jointly concern the Bank and the Ministry of Finance.”.

11. Substitution of section 10, Act XXXIII of 1956. — In the said Act, for section 10, the following shall be substituted, namely—

“10. Governor and Deputy Governors.- (1) The Governor of the Bank shall be its chief executive officer, who shall chair the Executive Committee and ensure the implementation of the decisions taken and policies adopted by the Board of Directors, Executive Committee and Monetary Policy Committee, and shall represent the Bank externally in person or through a nominee.

(2) At any time when the office of Governor is vacant or the Governor is incapacitated, the senior most Deputy Governor shall be the Acting Governor, until the Governor is appointed. Whenever, the Governor is on leave or travelling abroad, he may designate in writing one of the Deputy Governors as Acting Governor who, while chairing Board meeting in the absence of Governor, shall in case of equality of votes have casting vote.

(3) There shall be three Deputy Governors.

(4) A Deputy Governor shall perform such duties as may be assigned to him by the Governor.

(5) Persons eligible to serve the offices referred to in sub-sections (1) and (3) shall possess recognized integrity, expertise and advanced degree from a recognized university in the fields of economics, financial services, accountancy or banking with relevant professional experience in any such field for at least ten years."

12. Insertion of new section 11A, Act XXXIII of 1956.- In the said Act, after the omitted section 11, the following new section shall be inserted, namely:—

"11A. Appointments.- (1) The Governor and the non-executive Directors shall be appointed by the President, upon the recommendation of the Federal Government taking into account the eligibility and disqualification criteria laid down in this Act.

(2) The Deputy Governors shall be appointed by the Federal Government after consultation between the Minister of Finance and the Governor, from amongst a panel of three candidates recommended by the Governor for each vacant position, in order of merit.

(3) External members of the Monetary Policy Committee shall be appointed by the Federal Government, upon the recommendation of the Board.

(4) In the event of a vacancy occurring amongst the appointed Governor, Deputy Governors, non-executive Directors and the external members of the Monetary Policy Committee, an appointment referred to in sub-sections (1), (2) and (3) shall be finalized within a period not exceeding thirty days on the occurrence of such vacancy.

(5) The Governor and the Deputy Governors shall devote their whole time to the affairs of the Bank and shall not engage in any business or other profession so long as they hold their offices during their tenure."

13. Substitution of section 13, Act XXXIII of 1956.- In the said Act, for section 13, the following shall be substituted, namely:—

"13. Disqualifications of the Governor, Deputy Governors, Directors and members.- No person shall be or shall continue to be the Governor, a non-executive Director, an external member of Monetary Policy Committee and a Deputy Governor, who —

- (a) is a member of the Parliament or a Provincial Assembly or a Local Government;

- (b) is employed in any capacity in the public service of Pakistan or of any Province of Pakistan or any statutory body except the Bank or holds any office or position for which any salary or other remuneration is payable from public funds, except for engagement in educational work or senior executives of the Bank;
- (c) is or has been convicted of a serious criminal offense, money laundering, fraud or economic crime;
- (d) is, or at any time has been an undischarged insolvent; or has suspended payment or has compounded with the creditors;
- (e) is found to be permanently physically or mentally unable to perform the duties;
- (f) is a Director, officer or employee of any other bank or an entity regulated by the Bank;
- (g) is a shareholder of any bank or an entity regulated by the Bank;
- (h) is a member of any political party;
- (i) due to age is not able to complete the full term of appointment; or
- (j) absents themselves from three consecutive meetings of the Board or Monetary Policy Committee without leave from the Board or Monetary Policy Committee, as the case may be."

14. Substitution of section 14, Act XXXIII of 1956.- In the said Act, for section 14, the following shall be substituted, namely:-

"14. Terms of Office.- (1) The Governor, the Deputy Governors, the non-executive Directors shall be appointed for a term of five years and shall be eligible for re-appointment only for one term of five years.

(2) The external members of the Monetary Policy Committee shall be appointed for a term of five years and shall be eligible for one re-appointment for another term of five years.

(3) No person shall hold the office of the Governor or Deputy Governor after attaining the age of sixty-five years.

(4) The Governor, Deputy Governor, non-executive Director or external member of the monetary policy committee vacating office shall not be eligible to become a Director or member, as the case may be, until the expiry of the term of office for which he was appointed.

(5) On commencement of the State Bank of Pakistan (Amendment) Act, 2021 shall not affect the tenure of the incumbent Governor, Deputy Governors, and non-executive Directors who shall remain in office until their current term expires in accordance with their current terms and conditions."

15. Insertion of new section 14A and 14B, Act XXXIII of 1956.- In the said Act, after section 14, substituted as aforesaid, the following new sections 14A and 14B shall be inserted, namely: —

"14A. Remuneration, terms and conditions of service.- (1) The terms and conditions of service, including remuneration, of the Governor and the Deputy Governors shall be determined by the Board of Directors.

(2) The leaves and official foreign travels of the Governor and Deputy Governors, shall be determined by the Board and the Governor, respectively.

(3) The terms and conditions including the remuneration for the external members of the Monetary Policy Committee shall be determined by the Board of Directors.

(4) The Governor and Deputy Governors shall recuse themselves from the meeting at the time of determination of their terms and conditions and remuneration.

(5) The terms and conditions of the appointment of the non-executive Directors including fees shall be determined by their appointing authority and shall be attached to the offer of their appointment.

(6) When determining the remuneration of the Governor, Deputy Governors and the fees of the non-executive Directors and external members of the Monetary Policy Committee, the average relevant level of remuneration or fees prevalent in the financial sector of Pakistan for comparable levels of appointment shall be taken into account, in order to allow for qualified professionals to be recruited and retained.

(7) The consolidated amount of remuneration of the Governor and Deputy Governors and fees of non-executive Directors and the external members of the Monetary Policy Committee shall be mentioned in the annual financial statement of the Bank.

(8) Neither the remuneration and fees nor the terms and conditions of service shall be varied to the appointee's disadvantage during his term of office.

(9) No remuneration or fees or compensation shall be based on the Bank's profits or any of its revenues.

14B. Resignation.- (1) The Governor, a Deputy Governor, a non-executive Director or an external member of the Monetary Policy Committee may, by writing under his hand addressed to the appointing authority, resign his office.

(2) A resignation in sub-section (1) shall be addressed through the Board.

(3) On the acceptance of a resignation under sub-section (1) by the appointing authority, the office shall become vacant.”.

16. Amendment of section 15, Act XXXIII of 1956.- In the said Act, in section 15, for the sub-sections (1) and (2), the following shall be substituted, namely:-

“15. Dismissal of the Governor and Deputy Governor.- (1) The appointing authority may remove the Governor, or a Deputy Governor, if he-

(a) is guilty of gross misconduct; or

(b) is incapable of properly performing the duties of his office by reason of physical or mental incapacity; or

(c) has violated any of the stipulations mentioned in section 13.

(2) The appointing authority shall remove any non-executive Director or external member of the Monetary Policy Committee if he-

(a) is guilty of gross misconduct; or

(b) is incapable of properly performing the duties of his office by reason of physical or mental incapacity; or

(c) has violated any of the stipulations mentioned in section 13:

Provided that no proceedings under sub-sections (1) and (2) shall be initiated unless a show cause notice, including an opportunity of being heard, is given to such person.”.

17. Insertion of new section 16A, Act XXXIII of 1956.- In the said Act, after the omitted section 16, the following new section 16A shall be inserted, namely:—

“16A. Conflict of interest.- No person appointed under section 11A shall act as a representative of any commercial, financial, agricultural, industrial or other interest, or receive or accept directions therefrom, in respect of duties to be performed under this Act. Every such person shall fully and promptly disclose to the Board any interest, whether personal, commercial, financial, agricultural, industrial or other, which he or any dependent member of his family may directly or indirectly hold or be connected with and

which becomes the subject of consideration by the Board, and shall recuse themselves from any Board deliberations and voting related thereto:

Provided that such an interest, if so disclosed, shall not disqualify such member for the purpose of constituting a quorum."

18. Amendments of section 17, Act XXXIII of 1956.- In the said Act, in section 17,—

(a) for clause (1A), the following shall be substituted, namely:—

"(1A) provide the refinance facility exclusively to the financial institutions falling under the supervisory jurisdiction of the Bank backed by such collateral and on such terms and conditions as may be determined by the Bank. This refinance shall not be provided to any person other than a financial institution. The Bank shall implement the refinance facility exclusively in pursuit of its mandate, without compromising its primary objective of price stability. The Bank shall not use the refinancing facility to directly or indirectly provide privileged access to funding to any financial institution or risk insurance of any specific sector.";

(b) in clause (2), sub-clauses (a), (b), (d) and (e) shall be omitted;

(c) clauses, (4A), (4B), (4C), (19) and (19A) shall be omitted;

(d) in sub-clause (4), the words and comma "Local Authorities" shall be omitted;

(e) after clause (4C), omitted as aforesaid, the following new clause 4D shall be inserted, namely:—

"(4D) any balances held by the Bank under omitted sections 17A, 17B, 17C, 17D and 17E shall stand transferred to the paid-up capital and general reserves of the Bank;"

(f) clauses (5), (6), (6A) and (6B) shall be omitted;

(g) in clause (8), the expression "hundi," shall be omitted and the expression "but no such business shall be carried on or transacted without the previous approval of the Federal Government" shall be omitted;

(h) in clause (10), in sub-clause (c), for the semi-colon, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:—

"Provided that the Bank may only undertake the above operations or purchase such securities on the secondary markets;"

19. Omission of sections 17A, 17B, 17C, 17D and 17E, Act XXXIII of 1956.- In the said Act, sections 17A, 17B, 17C, 17D and 17E shall be omitted.

20. Substitution of section 17G, Act XXXIII of 1956.- In the said Act, for section 17G, the following shall be substituted, namely: —

"17G. Lender of last resort.- (1) Where the circumstances so warrant and a scheduled bank approaches the Bank for a financial facility to improve its liquidity and where the scheduled bank in the opinion of the Bank is solvent and can provide adequate collateral to support the financial facility, the Bank may provide short-term financial facility in accordance with the regulations made by the Bank in relation thereto, notwithstanding the provisions of sub-sections (2), (3) and (3A) of section 20.

(2) Where in the opinion of the Bank, the aforesaid financial facility to a scheduled bank is necessary to preserve the stability of the financial system and where the bank does not fulfill the requirements specified under sub-section (1) of this section, the Bank may, provided that it determined the scheduled bank is viable in the medium term, provide such financial facility on such terms and conditions as the Bank specifies, provided that a written irrevocable guarantee of the Federal Government is received in favour of the Bank, securing the repayment of the facility, notwithstanding the provisions of sub-section (2), (3) and (3A) of section 20.

(3) For the purposes of this section, a financial facility shall not include participation in the capital of a scheduled bank:

"Provided that any outstanding holding by the Bank of equity or right to equity in any scheduled bank shall be liquidated within ten years from the commencement of the State Bank of Pakistan (Amendment) Act, 2021."

21. Amendment of section 18, Act XXIII of 1956.- In the said Act, in section 18, for sub-section (1), the following shall be substituted namely:—

"(1) The Bank may operate in the financial markets by —

- (a) buying and selling outright (spot or forward) and conducting repurchase agreements of Government securities purchased in the secondary market;
- (b) swap or lending operations in foreign currencies;
- (c) lending or borrowing claims and marketable instruments and precious metals;
- (d) conducting, without prejudice to section 17G, credit operations with banks operating in Pakistan, with lending based on adequate collateral; and
- (e) other means as may be deemed expedient for the conduct of open market operations:

Provided that the existing Government securities purchased on the primary market and in the books of the Bank on commencement of the State Bank of Pakistan (Amendment) Act, 2021, may be sold or used for repurchase agreements for the purpose of open market operations."

22. Amendment of section 20, Act XXXIII of 1956.- In the said Act, in section 20, after clause (5), the following new clause shall be inserted, namely: —

"(5A) undertake any quasi-fiscal operations or development finance activities."

23. Substitution of section 39, Act XXXIII of 1956.- In the said Act, for section 39, the following shall be substituted, namely: —

"39. Accountability.- (1) The Governor shall submit annual report before the *Majlis-e-Shoora* (Parliament) regarding the achievement of the Bank's objectives, conduct of monetary policy, state of the economy and the financial system. In addition, the *Majlis-e-Shoora* (Parliament) may require any senior official to attend at such additional times as may be required.

(2) The Bank shall, not less than twice a year, publish and submit to the *Majlis-e-Shoora* (Parliament) and the Minister for Finance a state of the economy report with reference to price development, money supply, credit, balance-of-payments and economic growth.

(3) The Bank shall, at minimum annual basis, publish a report on financial stability that provides the overall assessment of the financial system."

24. Substitution of section 40, Act XXXIII of 1956.- In the said Act, for section 40, the following shall be substituted, namely: —

"40. Annual financial statements and reports.- (1) The financial year of the Bank shall begin on the first day of July of a calendar year and end on the last day of June of the next calendar year.

(2) The Bank shall formulate accounting policies and procedures and prepare financial statements in line with internationally recognized accounting standards as adapted by the Board in light of the special nature of central bank operations.

(3) Within four months after the close of each of its financial year, the Bank shall publish on its website and submit to the Federal Government and the *Majlis-e-Shoora* (Parliament) financial statements, approved by the Board, signed by the Governor, the Deputy Governor and the chief financial officer, along with the auditors' report thereon.

(4) The Bank shall prepare and publish, within five days of the close of the week on its official website weekly accounts pursuant to a proforma approved by the Board."

25. Substitution of section 41, Act XXXIII of 1956. — In the said Act, for section 41, the following shall be substituted, namely: —

"41. General reserve, unrealized revaluation reserve and special reserve.- (1)

The Bank, with the approval of the Board, shall establish and maintain a general reserve account. The general reserve account may not be used except for the purposes of increasing the paid-up capital or of covering losses sustained by the Bank.

(2) The Bank shall establish unrealized revaluation reserves accounts to account for unrealized gains and losses arising on its exposure in gold, financial instruments or other assets and liabilities on which such unrealized gains or losses are not required to be taken to the profit and loss account under the accounting standards followed by the Bank.

(3) The Bank, with the approval of the Board, shall also make allocation to the unrealized revaluation reserve from the net annual profit, representing the unrealized gain on its exposures in foreign currencies, financial instruments, other assets and liabilities on which unrealized gains or losses are taken to the profit and loss account in accordance with the accounting standards followed by the Bank.

(4) The Bank with the approval of the Board may establish special reserve accounts for any of its specific exposures."

26. Substitution of section 42, Act XXXIII of 1956. — In the said Act, for section 42, the following shall be substituted, namely: —

"42. Profits, losses, and distributable earnings. — (1) The annual distributable profit for a year shall be determined as follows:—

$$A=B+C-D$$

Where

A = Distributable profit;

B = Net annual profit of the Bank as reflected in the audited financial statements;

C = amount of unrealized gains transferred to unrealized revaluation reserve account in previous one or more years that realized during the year; and

D = amount of unrealized gains included in 'B'.

(2) The Bank shall allocate the distributable profit as follows:—

(a) an amount equivalent to twenty percent of distributable profit shall be credited to the general reserve account until the sum of the capital and

general reserves equal eight percent of the total monetary liabilities of the Bank;

(b) as may be determined by the Board, following a consultation with the Bank's external auditors, from time to time shall be transferred to the special reserve accounts created for any of its specific, identified liability, contingency or expected diminution in the value of its assets; and

(c) after accounting for the amounts as aforesaid, any remaining amount of the distributable profit shall be transferred to the Federal Government within thirty days after making the financial statements public.

(3) Following the initial attainment of the eight percent level, in case the sum of the Bank's capital and general reserves falls below such required level of monetary liabilities, the Bank shall allocate all the distributable profit to the Bank's capital and general reserves until the required level is re-established.

(4) If in any financial year the Bank incurs a net loss, this loss shall first be charged to the general reserve account and subsequently applied against the paid-up capital.

(5) No distribution shall be made out of current income of the Bank except as permitted by sub-section (2).".

27. Substitution of section 43, Act XXXIII of 1956. —In the said Act, for section 43, the following shall be substituted, namely: —

"43. External Audit.- (1) The accounts, records and financial statements of the Bank shall, once a year, be audited in accordance with the international standards on auditing, by two independent external auditors who shall be of good repute and have international experience in the auditing of major international financial institutions or central banks or have affiliations with audit firms that have such experience.

(2) The Board, on the recommendation of the audit committee, shall appoint the external auditors for a period of five years and they shall not be eligible for reappointment at that time.

(3) The Board may, on the recommendation of the audit committee, terminate the contract of the Bank's external auditors for good cause.

(4) The external auditor shall report to the audit committee and the Board on key matters arising from the audit and in particular on material weaknesses in internal controls relating to the financial reporting process.

(5) The external auditors shall have full power to examine all books and accounts of the Bank and obtain all information about its transactions."

28. Substitution of section 44, Act XXXIII of 1956.- In the said Act, for section 44, the following shall be substituted, namely: —

"44. Auditor-General of Pakistan.-The Auditor-General of Pakistan may, without prejudic to the autonomy of the Bank and the audits conducted by the external auditors pursuant to section 43, conduct audit of the accounts of the Bank. Such audit shall not have concern with the merits of the policy decisions including implementation thereof by the Bank."

29. Substitution of section 45, Act XXXIII of 1956.- In the said Act, for section 45, the following shall be substituted, namely: —

"45. Audit committee.- (1)The Board shall constitute an audit committee and define its composition, responsibilities, duties and terms of reference.

(2) The audit committee shall consist of three or more non-executive Board members, with at least one having extensive experience in the field of accounting, auditing or internal controls. The audit committee may co-opt external experts without the right to vote. The criteria provided in sub-section (5) of section 9 shall apply to the appointment of the external expert who shall not have been a member of the Board or staff in the three calendar years preceding his appointment as member of the audit committee.

(3) The audit committee's responsibilities shall be enshrined in the audit committee's terms of reference approved by the Board, which shall include, inter alia, —

- (a) overseeing the internal audit function;
- (b) approving the charter of the internal audit function;
- (c) recommending the appointment of external auditors, and their scope of work; and
- (d) evaluating the effectiveness of the internal control systems."

30. Insertion of new section 45A, Act XXXIII of 1956.- In the said Act, after section 45, substituted as aforesaid, the following new section shall be inserted, namely:—

"45A. Chief internal auditor.- (1) There shall be a chief internal auditor as an employee of the Bank who shall be designated and removed by the Board on recommendation of the audit committee from amongst the persons having extensive professional experience in the field of accounting or audit.

(2) The Board shall define the criteria and terms and conditions for the appointment and removal of the chief internal auditor."

31. Substitution of section 46B, Act XXXIII of 1956.- In the said Act, for section 46B, the following shall be substituted, namely:—

"46B. Functional and institutional autonomy.- The Bank shall be autonomous in the pursuit of its objectives and in the performance of its powers pursuant to this Act.

(2) Nothing in this Act, nor in any other law for the time being in force, shall be construed to allow any third party, including the Government or quasi-government entities, to approve, suspend, annul or interfere with the management of the Bank, as well as the rights, duties and obligations of the Bank and of the members of its Board, the Executive Committee, the Monetary Policy Committee, or the staff of the Bank in the performance of their functions pursuant to this Act.

(3) No Governmental or quasi-Governmental body or agency shall issue any directive, directly or indirectly, to any banking company or any other financial institution regulated by the Bank which is inconsistent with the policies, regulations and directives issued by the Bank pursuant to or in exercise of its powers under this Act or any other law for the time being in force.

(4) The Bank, the members of its decision-making bodies and its staff shall neither request, nor take any instructions from any other person or entity, including Government or quasi-government entities. The autonomy of the Bank shall be respected at all times and no person or entity shall seek to influence the members of the Board, Executive Committee, Monetary Policy Committee, or the staff of the Bank in the performance of their functions.

(5) Without prejudice to the responsibility of the Minister of Finance and the powers of the Government as provided for in this Act or any other law the Bank shall directly submit the information and reports envisaged in section 39 to the concerned Standing Committee of the Parliament and the Government. The Bank shall interact and communicate directly with any third persons, including Government or quasi-government agencies, scheduled banks and other regulated entities, in pursuit of its objectives.

(6) The Bank, with the approval of the Federal Government, may enter into an agreement or Memorandum of Understanding or any reciprocal arrangement, with any domestic or foreign regulatory or supervisory authority for the purpose of sharing and

obtaining public and nonpublic confidential information notwithstanding the provisions of any other law for the time being in force."

(7) All matters relating to the Bank requiring approval of the Federal Government, Prime Minister or President shall be initiated by the Division allocated with the business of this Act on a reference received from the Bank or on its own initiative following written consultation with the Bank. Any reference so received from the Bank will be submitted in its original form to the competent authority for its decision within four weeks.

(8) The Bank shall be consulted prior to the introduction of any Bill by the Federal Government in the Parliament which may have a bearing on the functions of the Bank."

32. Insertion of new section 52A, Act XXXIII of 1956.- In the said Act, after section 51, the following new section shall be inserted, namely:—

"52A. Protection of action taken in good faith and indemnity.- (1) No suit, prosecution or any other legal proceeding including for damages shall lie against the Bank, Board of Directors or member thereof, Governor, Deputy Governors, member of any Board committee and Monetary Policy Committee, officers and employees of the Bank for any act of commission or omission done in exercise or performance of any functions, power or duty conferred or imposed by or under this Act upon such persons or any rules and regulations made thereunder or any legislation administered by the Bank, or rules and regulations made thereunder, unless such act of commission or omission is undertaken in bad faith and with malafide intent.

(2) The Governor, Deputy Governors, Directors, members of any Board committee and Monetary Policy Committee, officers and employees of the Bank shall not be liable in their personal capacity for any act of commission or omission undertaken in their official capacity in good faith. In case of any such proceedings as mentioned in sub-section (1), they shall be indemnified by the Bank which shall bear all the expenses thereof, unless an act or omission has been subsequently determined to have been undertaken in bad faith and with malafide intent."

33. Amendments of section 54, Act XXXIII of 1956.- In the said Act, in section 54,—

(a) sub-section (1) shall be omitted;

- (b) in sub-section (2), for the expression "In particular and without prejudice to the generality of the forgoing provision, such regulations may provide for all or any of the following matters", the expression "The Board of Directors may make regulations consistent with this Act and falling under the Board's domain, in particular to provide for any of the following matters" shall be substituted;
- (c) in sub-section (2), amended as aforesaid, clauses (f), (h), (i), (n) and (o) shall be omitted;
- (d) in clause (j), after the expression "service," the expression "performance management, promotion, compensation, rotation," shall be inserted;
- (e) in sub-section (3), for the word "payment", the word "request" shall be substituted.

34. Amendment of section 54A, Act XXXIII of 1956.- In the said Act, in section 54A, after the word "law", the expression ", general or special" shall be inserted.

STATEMENT OF OBJECTS & REASONS

The role of the State Bank of Pakistan (SBP) as defined in the State Bank of Pakistan Act 1956 has undergone several changes over the years. Major revisions in the SBP Act were introduced in 1994, 1997, 2012 and 2015. These changes were carried out to bring the central bank legislation in line with best practices at that time and to enable it to deal with evolving issues effectively. For example, the SBP Act was amended in 2015 to establish an independent Monetary Policy Committee for taking decisions related to interest rates and monetary policy. Given that a holistic review of the existing legislation was long overdue, SBP in consultation with the Federal Government has proposed a set of amendments in the SBP Act.

2. The amendments being proposed are in line with international best practices and also take into account the ground realities in Pakistan. By facilitating domestic economic stability, the amendments will help support sustainable growth and avoid repeated booms and busts that have characterized Pakistan's past and led to painful consequences in terms of higher inflation, higher poverty, and lower growth.

3. Overall, the amendments balance the provision of necessary operational and financial autonomy to the State Bank with new mechanisms for enhancing transparency and strengthening accountability. More specifically, the amendments have six key purposes: (1) to clearly define the objectives of the SBP to improve its accountability; (2) to outline the SBP's functions in line with these objectives; (3) to provide the SBP necessary financial resources to help achieve its objectives; (4) to strengthen the functional and administrative autonomy of the SBP; (5) to increase transparency in the operations of the SBP and strengthen its governance; and (6) to enhance the SBP's accountability by strengthening oversight functions and increasing reporting requirements. The rest of this document discusses these in turn.

3. First, the amendments identify domestic price stability as the primary objective of the SBP, followed by financial stability and support of the general economic policies of the Government. The clear specification of objectives in this manner will make the SBP more accountable for achieving them. In addition, it would help the State Bank to prioritize its policy decisions appropriately to ensure sustainable economic growth in Pakistan. There is strong international evidence that countries with an independent, accountable and transparent central bank have lower and more stable inflation over long periods of time, which in turn lays the foundation for sustainable growth. Conversely, international experience has repeatedly shown that countries that prioritize growth at the expense of price and financial stability are not able to sustain growth and have repeated boom-bust cycles—rapid economic growth followed by a financial crisis.
4. Second, in order to achieve these objectives, the amendments suitably align the SBP's functions and collate them under a new section. Given the inflationary nature of government borrowing from the Central Bank, the amendments propose to exclude provisions related to Government borrowing as well as the quasi-fiscal operations of the State Bank. The State Bank will, however, continue to extend refinance facilities to financial institutions with appropriate checks and balances. Further, lender of last resort function of the central bank has been further strengthened to enable it to provide temporary liquidity facility to banks against appropriate collateral.
5. Third, the amendments seek to provide the SBP with sufficient financial resources to achieve its objectives. A central bank's autonomy can be jeopardized if it cannot continually avail itself of sufficient financial resources to fulfill its mandate. The amendments allow SBP to be sufficiently capitalized and prescribe the necessary mechanism to achieve the desired level of capital overtime, through both statutory reserves as well as retained earnings.
6. Fourth, the amendments strengthen the functional and administrative autonomy of the SBP. A key element of the functional independence of Central Banks is protection of its officials for actions taken in good faith. Provisions for protection are not only a common practice in other central banks but also exist in other domestic laws. The amendments, therefore, propose to add a provision for a general protection to SBP officials for all actions undertaken in good faith. In addition, the Monetary and Fiscal Coordination Board is proposed to be abolished, as its terms of reference overlap with the work that has been assigned to the Monetary Policy Committee under the existing Act and such a mechanism for coordination goes beyond provisions in the acts of other central banks. Instead, a new mechanism for coordination is being proposed between the Finance Minister and the Governor, under which they would establish a close liaison and keep each other informed of matters that jointly concern the Ministry of Finance and the State Bank.
7. Fifth, to increase transparency in the operations of the SBP and strengthen its governance, the amendments prescribe qualification and experience requirements, tenure, conflict of interest and disqualification criteria for all appointments, including the directors on the Board of State Bank, members of the Monetary Policy Committee, the Governor and the Deputy Governors. To introduce a collegial decision-making process, the amendments propose to establish an Executive Committee at State Bank consisting of the Governor and the Deputy Governors. This committee will be responsible for formulating policies related to the Bank's core functions as well as those related to administration and management matters, excluding those matters falling in the purview of the Monetary Policy Committee or the Board of Directors. All policy decisions will be taken by Executive Committee.

8. And sixth, in order to enhance accountability and transparency, the amendments strengthen provisions related to accountability of the State Bank to the Parliament, constitution of an Audit Committee, designation of a Chief Internal Auditor and appointment of an External Auditor. In addition, the oversight role of the Board of Directors of State Bank has been strengthened and its scope has been broadened, including by giving them explicit oversight over the affairs and functions of the Bank; the power to supervise the management, Bank's administration, operations; and right of access to all activities of the Bank.

9. This Bill is designed to achieve the aforesaid purpose.


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SHAUKAT FAYAZ AHMED TARIN
Minister for Finance and Revenue