

[AS PASSED BY THE NATIONAL ASSEMBLY]

A
Bill

to provide for the establishment of Deposit Protection Corporation, as a subsidiary of the State Bank of Pakistan, and for the management and control thereof

WHEREAS it is expedient to provide for the establishment, management and control of Deposit Protection Corporation, as a subsidiary of the State Bank of Pakistan; for protection of small depositors in order to ensure the financial stability of, and maintain the public trust in, the financial system, and for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:-

CHAPTER -I
PRELIMINARY

1. Short title, extent and commencement. – (1) This Act may be called the Deposit Protection Corporation Act, 2016.

- (2) It extends to the whole of Pakistan.
- (3) It shall come into force at once.

2. Definitions. – In this Act, unless there is anything repugnant in the subject or context,-

- (a) “banking company” has the same meaning as defined in section 5 of the Banking companies Ordinance, 1962 (LVII of 1962);
- (b) “Board” means the Board of Directors of the Corporation;
- (c) “Chairman” means the Chairman of the Board;
- (d) “Director” means a member of the Board;
- (e) “Corporation” means the Deposit Protection Corporation established under sub-section (1) of section 3;
- (f) “Failed Institution” means such member institution that has been notified by the State Bank under sub-section (1) of section 21;
- (g) “Governor” means the Governor of the State Bank and includes an Acting Governor;
- (h) “Managing Director” means the Managing Director appointed under section 12;
- (i) “Member Institution” means a banking company or a financial institution which is notified by the Corporation as a member institution and which is required to pay premium to the Corporation under the provisions of this Act;
- (j) “Prescribed” means prescribed by rules or regulations made under this Act;
- (k) “Protected Deposit” means the deposit protected under section 7, subject to exceptions under section 8;

- (l) "Regulations" means regulations made under this Act;
- (m) "Rules" means rules made under this Act;
- (n) "Seal" means the common seal of the Corporation; and
- (o) "State Bank" means the State Bank of Pakistan established under the State Bank of Pakistan Act, 1956 (XXXIII of 1956).

CHAPTER -II

ESTABLISHMENT AND OPERATION OF THE CORPORATION

3. Establishment of the Corporation. – (1) On the commencement of this Act, there shall be established a Corporation to be called Deposit Protection Corporation.

(2) The Corporation shall be a body corporate having perpetual succession and a seal and shall, by the said name sue and be sued.

(3) The head office of the Corporation shall be situated in Karachi: it may shift the head office and establish offices in Pakistan with the prior approval, in writing, of the State Bank.

4. Corporation to be a subsidiary of the State Bank. - The Corporation shall be a subsidiary of the State Bank.

5. Objective of the Corporation. – (1) The objective of the Corporation is to compensate the depositors for losses incurred by them to the extent of protected deposits in the event of failure of a member institution as notified by the State Bank under sub-section (1) of section 21.

(2) All banks scheduled under sub-section (2) of section 37 of the State Bank of Pakistan Act, 1956 (XXXIII of 1956), unless exempted or excluded by the Board, shall compulsorily be member institutions of the Corporation and liable to pay the prescribed premium.

6. Business and functions of the Corporation. – The Corporation, under the overall supervision and control of the Board, may transact and carry on all or any of the following functions, namely: -

- (a) collect premiums and contributions from member institutions and others;
- (b) acquire, hold, manage, and invest resources of the Corporation;
- (c) receive grants and borrow moneys;
- (d) assess and verify claims of the depositors made against the failed institution;
- (e) make or cause to be made payments to the depositors to the extent of protected deposits;
- (f) recover payments made on account of protected deposits from the assets of failed institutions;
- (g) incur any expenses concerning its functions;
- (h) enter into any contracts or other arrangements or any financial or other transactions;
- (i) issue guarantees and indemnities;

- (j) purchase, hold, manage, lease, encumber, transfer, and dispose of any property and assets;
- (k) hire, employ, or retain any person(s) as an employee, agent, or consultant on full time, temporary or on deputation basis and make necessary regulations for the terms and conditions of their service;
- (l) create awareness among general public and depositors about the deposit protection scheme as contained in this Act; and
- (m) carry on any business, discharge any functions and exercise powers as are necessary for, incidental to, or in connection with, the affairs of the Corporation, or any other act or deed deemed by the Board to be in the interest of the Corporation or for the advancement of the purposes of this Act.

7. **Protected Deposits.** – (1) The Corporation shall guarantee the full payment of funds held in depositor's accounts with a member institution, regardless of the number and size of the deposits, up to an amount prescribed by the Corporation from time to time.

(2) The above amount shall be inclusive of any interest accrued or return due as at the date of the notification of the State Bank under sub-section (1) of section 21.

(3) *Shariah* compliant mechanism of deposit protection in respect of Islamic banking institutions shall be provided in the prescribed manner which shall be approved by State Bank's *Shariah* Board.

(4) Within ninety days of its commencement of business, the Corporation shall publish, in at least two daily newspapers having wide circulation, the guarantee amount as provided under sub-section (1) of this section. Any subsequent change in the guarantee amount shall be in same way published in two daily newspapers having wide circulation.

8. **Exceptions.** – (1) Protected Deposits shall not cover the deposits of ,-

- (a) persons who have been granted preferential interest or return in deviation from the terms and conditions announced by a Member Institution which the Member Institution is obliged to apply to all its depositors of similar category;
- (b) members of the Board of Directors and senior management of a member institution including chief executive officer and key executives;
- (c) partners of auditing firms responsible to certify the Member Institutions' financial statements;
- (d) persons having acquired rights to a deposit after the issuance of State Bank's notification under sub-section (1) of section 21;
- (e) spouse, dependent lineal ascendants and descendants and dependent brothers and sisters of the persons specified in clauses (b), (c) and (d);
- (f) any Member Institution whose deposits are in its name and on its account;
- (g) government or government institutions;

- (h) any company as defined under the Companies Ordinance, 1984 (XLVII of 1984); or
- (i) any other class of persons or institutions as specified by the Board from time to time:

Provided that where the Board specifically excludes any class of persons or institutions, such decision shall be published by the Corporation in two daily newspapers having wide circulation.

(2) Protected deposits shall not cover deposits arising out of or related to transactions or actions constituting 'money laundering' within the meaning of the Anti-Money Laundering Act, 2010 (VII of 2010), if the offender has been convicted of such offence.

9. Share capital and limited liability. – (1) The authorized share capital of the Corporation shall be one billion rupees or such other amount as the State Bank may, from time to time, determine by order in writing and shall be divided into shares of one million rupees each.

(2) The paid-up capital of the Corporation shall be such amount as may, from time to time, by order in writing determined by the State Bank and contributed by the shareholders.

(3) The share capital may be divided into different kinds and classes as may be prescribed.

(4) The liability of shareholders of the Corporation shall be limited to the amount, if any, not fully paid-up on the shares held by them in the capital of the Corporation.

(5) No dividend shall be payable to the shareholders of the Corporation.

10. Board of Directors. – (1) The general superintendence, direction and management of the affairs and business of the Corporation and overall policy making in respect of its operations shall vest in the Board which may exercise all such powers and do all such acts, deeds and things that may be exercised or done by the Corporation.

(2) The Board shall consist of the following seven directors, namely:-

- (a) a Deputy Governor of the State Bank as nominated by the State Bank;
- (b) four Directors to be appointed on the nomination by Federal Government in consultation with the State Bank. The directors so appointed shall have knowledge of banking, commerce, industry, economics, finance or law and neither of these directors shall be an officer of the Federal or a Provincial Government or of the State Bank or an employee or director or shareholder of the Member Institution;
- (c) one Director, an official of the Ministry of Finance, to be appointed on the recommendation of the Federal Government; and
- (d) the Managing Director.

(3) The Directors appointed under clause (b) of sub-section (2) shall hold office for a term of three years and shall be eligible for re-appointment for an additional term of three years on the basis of their performance in the first term.

(4) The meetings of the Board shall be held at such times and places as may be prescribed or, until so prescribed, as and when convened by the Chairman.

(5) The Directors shall be paid by the Corporation such fees and allowances for attending the meetings of the Board or of any of its committees and for attending to any other work of the Corporation as may be prescribed.

(6) No act or proceedings of the Board shall be invalid merely on the ground of the existence of any vacancy in, or defect in the constitution of, the Board.

(7) The quorum of meetings of the Board shall be as may be prescribed or, until so prescribed, shall be three Directors.

(8) All decisions of the Board shall be taken by majority of the Directors present and voting at a meeting duly convened and held and in the event of an equality of votes the Chairman may exercise a casting vote.

(9) A resolution in writing signed by all Directors shall be as effective as if such resolution had been passed at a meeting of the Board.

(10) Till such time the Board is constituted or three months of the commencement of this Act, whichever is earlier, all powers of the Board shall vest in the State Bank

11. Chairman. – (1) The Deputy Governor of the State Bank shall be the Chairman of the Board.

(2) The Chairman shall, whenever present, preside over meetings of the Board. In the absence of the Chairman, the Directors present shall choose one of them to be the Chairman for such meeting.

12. Managing Director. – (1) The State Bank shall appoint a professional person who has significant experience in banking, finance, accountancy, business administration or public administration as Managing Director of the Corporation for a term of five years and he shall be eligible for re-appointment for another term of five years on the basis of his performance in the first term:

Provided that the Managing Director may delegate his powers, by general or special order in writing, to senior executive of the Corporation for managing day- to- day affairs during his leave period or absence from Pakistan:

Provided further that if the office of Managing Director is vacant, the State Bank may appoint any of its senior executive as acting Managing Director for a period not exceeding three months.

(2) The Managing Director shall be the chief executive officer of the Corporation and shall, subject to the control and direction of the Board, administer the affairs of the Corporation, and shall have such powers for this purpose as are from time to time delegated to him by the Board.

(3) The salary and other terms and conditions of service of the Managing Director shall be such as the Board may determine except that neither the salary of the Managing Director nor his other terms and conditions of service shall be varied to his disadvantage after his appointment.

(4) The Managing Director shall devote his full time and attention to the affairs of the Corporation, provided that the Managing Director may, in addition to his duties as the Managing Director, be entrusted with such other duties for such period as the Board may, by order in writing, determine.

13. Disqualifications of the Directors. – No person shall be appointed or hold office as Director who-

- (a) is a member of the Senate, National Assembly, any Provincial Assembly, or an elected member of a local council or local body constituted under any law relating to local councils or local bodies;
- (b) is a director, officer or employee of any banking company or financial institution or has an interest as a shareholder in a banking company or financial institution:

Provided that nothing in this clause shall apply where the Director is in the employment of the State Bank or its subsidiaries or where the Director is, in addition to holding the office of Director, entrusted with additional duties by the Board or State Bank;

- (c) has been convicted of tax evasion under any law, or has been convicted or proceedings are pending against him under section 412 of the Companies Ordinance, 1984 (XLVII of 1984), or section 83 of the Banking Companies Ordinance, 1962 (LVII of 1962), or has been convicted by a court of law for an offence involving moral turpitude;
- (d) has been deprived of the right to hold a position of financial responsibility;
- (e) is in default of payments due from him to any banking company, financial institution, cooperative society, Government Department, Government controlled or managed company or corporation and for the purpose of this clause, default in payment by the spouse, dependent children, and companies, firms and other business concerns under the control or management of a person shall be considered as the default of such person; or
- (f) holds an office in a political party.

14. Removal of a Director. – A Director or the Managing Director may be removed by State Bank by an order in writing where it is established that,-

- (a) any of the circumstances referred to in section 13 is applicable;
- (b) he has become physically or mentally incapable of carrying out his responsibilities for a continuous period of six months or more;
- (c) he has been engaged in a serious misconduct;
- (d) his activities impair the Corporation's interests;
- (e) he has been absent from three or more successive meetings of the Board without reasonable ground; or
- (f) otherwise State Bank considers him to be unfit to be a Director or as the case may be Managing Director.

15. Disclosure of Interest. – (1) Every Director and employee of the Corporation shall disclose in writing to the Board any commercial, financial or other business interest which he or his family members may have, whether directly or indirectly, and which may have adverse implications for the Corporation's interest.

(2) In performing their obligations, the persons under sub-section (1) shall be bound to place the Corporation's interests before their own interests.

(3) Directors shall not participate in any discussion and shall restrain from voting on the issues in which their commercial, financial or other business interest, or those of their families, is involved.

16. Committees of Directors. – (1) The Board may constitute one or more committees consisting of such number of Directors as it may determine.

(2) The powers, functions, duties and other terms of appointment of a committee of directors shall be such as the Board may determine.

(3) The members of a Committee of Directors shall hold office for such period as the Board may determine.

(4) The minutes of every meeting of a Committee of Directors shall be presented before the Board at its next meeting following the meeting of the Committee.

(5) Subject to the general and any special directions of the Board, a Committee of Directors shall deal with any matter entrusted to it by the Board.

17. Corporation's Resources. – (1) The sources of the Corporation's resources shall, among others, consist of the following, namely:-

- (a) the paid-up share capital;
- (b) initial premiums from member institutions;
- (c) periodic premiums from member institutions;
- (d) return on the investments ;
- (e) proceeds received from a member institution's property in case of sale or liquidation; or
- (f) other sources including loans, donations, grants and foreign assistance etc.

18. Financing the Corporation in shortfall of resources. – (1) If at any time, resources of the Corporation fall short of its liabilities under this Act, such shortfall may be covered in one of the following ways, namely-

- (a) requiring member institutions to pay advance premium;
- (b) increasing the premium;
- (c) drawing loans in accordance with the terms and conditions prescribed by the Board; and
- (d) allocations from the Federal Government.

