

[TO BE INTRODUCED IN THE SENATE]

**A
BILL**

to amend the Board of Investment Ordinance, 2001

WHEREAS, it is expedient to amend the Board of Investment Ordinance, 2001 (XV of 2001), in the manner and for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement. - (1) This Act shall be called the Board of Investment (Amendment) Act, 2023.

(2) It shall come into force at once.

2. Insertion of new Chapter IIA, Ordinance XV of 2001. - In the Board of Investment Ordinance, 2001 (XV of 2001), hereinafter referred to as the said Ordinance, after Chapter II, the following new Chapter IIA shall be inserted, namely:-

"CHAPTER IIA

Special Investment Facilitation Council (SIFC)

10A. Establishment of a Special Investment Facilitation Council.

(1) The Federal Government shall, by notification in the official gazette, establish a Special Investment Facilitation Council (SIFC), for carrying out the purposes envisioned under this Chapter of the Ordinance.

(2) The SIFC shall consist of a Secretary, who shall also serve as the Principal Accounting Officer, and such members, as may be notified by the Federal Government, from time to time.

(3) The President of the SIFC shall be the Prime Minister of Pakistan.

(4) The President of the SIFC may co-opt any person as a member, or may require attendance of any person by special invitation, as deemed appropriate.

10B. Scope of work of the Special Investment Facilitation Council, -

(1) The SIFC shall facilitate investment and privatization in areas, including, but not limited to, Defence, agriculture, infrastructure development, strategic initiatives, logistics, minerals, information technology, telecommunication and energy (hereinafter referred to as the 'Relevant Fields'), and shall take all necessary measures in order to establish, facilitate, encourage and promote opportunities for investment, as well as, *inter alia*, business in and for Pakistan.

(2) The Federal Government may notify any other area, sector, industry or projects as Relevant Field through a notification in the official Gazette to be processed under this Chapter.

(3) The Provincial Government or an entity authorized by the said Government in this behalf may also refer any sector, industry or project to SIFC to be processed under this Chapter.

10C. Functions of the Special Investment Facilitation Council.

(1) Without prejudice to the generality of section 10B, the SIFC shall, *inter alia*,:-

- (a) act as 'Single Window' for multi-domain cooperation in Relevant Fields with GCC countries, in particular, and other countries in general, for facilitation of investment and development of an enabling policy environment;
- (b) recommend approvals, execute commercial transactions, and/or enter into arrangements and agreements, directly or indirectly, with local and foreign investors;
- (c) enter into commercial engagements and transact with governmental as well as corporate entities, for the purposes envisioned under this Chapter of the Ordinance.
- (d) prepare long-term road-map for growth, development and investment in the 'Relevant Fields', while capitalizing on fast track initiatives;
- (e) enhance awareness of Pakistan's latent potential in the 'Relevant Fields';
- (f) improve ease of doing business by, *inter alia*, facilitating timely decision making, avoiding duplication of effort, fast-tracking investment and projects implementation, etc.;
- (g) monitor the progress of investment programs and projects at all stages and ensure, through inter-agency and inter-provincial coordination, prompt implementation and operations thereof;
- (h) review investment promotion plans, formulate institutional arrangements, make transparent and simplified procedures and guidelines for investment promotion;

- (i) appraise, evaluate and process all investment proposals and projects received from the investors;
- (j) appoint commissions, expert bodies and consultants to study various aspects of attracting investment in all sectors;
- (k) promote an enabling environment for investment by encouraging deregulation and other measures to remove unnecessary obstacles in the process;
- (l) consider individual investment proposals as well as categories of investments that require special treatment, and recommend, where appropriate, additional incentives or relaxation in the regulatory and policy framework; and
- (m) perform any other function assigned by the Federal Government.

(2) In order to carry out its functions, the SIFC may adopt any procedure or process, with the approval of the Federal Government.

10D. Formation of Committees. - (1) For implementation of provision of this Chapter, SIFC may constitute executive and implementation committees.

(2) The committees shall perform such functions as may be assigned to them by SIFC, in addition to facilitation and supervision of projects, transactions, arrangements and agreements made or carried out under this Chapter of the Ordinance.

10E. Power to issue directions. - (1) For furthering the objectives of this Chapter, the SIFC may, as and when it considers necessary, issue recommendation, advice or directions to the respective regulatory bodies, authorities, public sector entities, divisions and departments of the Federal Government, on matters within their

respective domains, which shall, to the extent not inconsistent with applicable law be binding.

(2) SIFC shall have powers to summon any regulatory bodies, authorities, public sector entities, divisions and departments of the Federal Government, or a representative thereof, in case requisite regulatory licenses, certificates and/or any other legal permits and permissions required to commence, foster or grow investment operations are delayed unnecessarily which may hamper investor (s) sentiment and inflow of investment

(3) Powers specified in sub-sections (1) and (2) shall *mutatis mutandis* be exercisable by SIFC in respect of projects referred to the SIFC by the Provincial Government.

10F. Power to relax or exempt from regulatory compliance. - The Federal Government, upon recommendation of the SIFC, by notification in the official Gazette and subject to such conditions, limitations or restrictions if any as may be specified therein, may relax or exempt from a regulatory requirement or operation necessitated by any law for the time being in force for implementing projects, transactions, arrangements and agreements under this Chapter:

Provided that the relaxation or exemption, granted under this section, shall be granted in accordance with the provisions of the respective laws.

10G. Immunity. - (1) No suit, prosecutions or any other legal proceedings or action, in damages or otherwise shall lie against SIFC or any of its members or consultants for any act done, procedural lapse suffered, or omission made, in exercise or performance of any functions, power or duty conferred or imposed by or under this Chapter.

(2) Notwithstanding anything contained in any other law for the time being in force, an investigating agency, anti-graft agency, law enforcement agency or a court shall not inquire into or initiate investigation in relation to, *inter alia*, any commercial transaction, arrangement or agreement made under this Chapter, unless there exists material evidence of mala fides or bad faith on part of any person involved in the said commercial transaction, arrangement or agreement.

(3) No person shall be liable in his personal capacity for any action taken in his official capacity.

(4) Any procedural irregularity or lapse shall not affect, vitiate, set-aside, annul or rescind, *inter alia*, any transaction, arrangement or agreement under this Chapter.

10H. Overriding effect. - The provisions of this Chapter shall have effect notwithstanding anything contrary contained in any other law or instrument having the force of law for the time being in force and in the event of any inconsistency between the provisions of this Chapter and any other law whether enacted prior or subsequent to the commencement of the Board of Investment (Amendment) Act, 2023, the provisions of this Chapter shall prevail.

10I. Power to make rules. - The SIFC may, with prior approval of the Federal Government and by notification in the official Gazette, make rules for carrying out the purposes of this Chapter.

10J. Removal of difficulties. - Where any difficulty arises in giving effect to any provision of this Chapter, the Federal Government may by notification in the official Gazette, make an order for the removal of the difficulty."

STATEMENT OF OBJECTS AND REASONS

Foreign direct investment plays a crucial role in a country's economic progress, bringing in capital, technology transfer, and job opportunities. However, Pakistan faces several challenges in attracting significant FDI due to a range of obstacles. The current investment climate in Pakistan is hindered by multiple factors, leading to a suboptimal environment for both domestic and foreign investors. Key challenges include ease of doing business, systemic and bureaucratic hurdles, coordination between the federal and provincial levels, and decision-making processes, regulatory complexities, and a lack of investor confidence.

2. Addressing these challenges requires comprehensive reforms aimed at simplifying regulations, improving transparency, enhancing coordination between federal and provincial levels, and promoting a business-friendly environment. The Pakistani government has recognized these issues and has devised a plan to attract investment from Gulf Cooperation Council (GCC) countries as part of the 'Economic Revival Plan'. As per the plan, the Prime Minister has approved the establishment of the Special Investment Facilitation Council (SIFC). The SIFC will serve as a 'Single Window' for multidomain cooperation in 'Relevant Fields' with investor countries in general, aiming to facilitate investment and create an enabling policy environment.

(Minister In-Charge)