

# CORPORATE PULSE

OCTOBER, 2020

## INSIDE THIS ISSUE

---

### PG. 2

Oversight Regulations for Self-Regulatory Bodies of Accountants, 2020

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### PG. 4

Code Of Corporate Governance For Insurers, 2016

Companies (Distribution Of Dividends) Regulation, 2017



# 4M BUSINESS CONSULTANTS

AN INITIATIVE TO PRESENT MONTHLY AMENDMENTS IN CORPORATE LAWS AND RELATED REGULATIONS IN SUMMARY FORM TO KEEP OUR READERS UPDATED ABOUT THE CHANGING REGULATORY ENVIRONMENT

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# OVERSIGHT REGULATIONS FOR SELF- REGULATORY BODIES OF ACCOUNTANTS, 2020

As published in our last month's Newsletter, Securities and Exchange Commission of Pakistan has designed a new regulation for Self- Regulatory Bodies (ICAP and ICMAP) called "Oversight Regulations for Self-Regulatory Bodies of Accountants, 2020". In these new regulations, SECP has defined the duties of Self-Regulatory Body (SRB) and functions for Oversight Body (SECP).

A brief summary of the issued regulations is being presented below:

## For the purpose of the regulations only

- "Act" means Anti-Money Laundering Act, 2010 (AMLA)
- "Member in Practice" – means a member of the Institute having certificate of practice and:
  - a. Practicing as a "Chartered Accountant" individually (i.e. as a sole-proprietor) or in partnership with chartered accountants.
  - b. Practicing as a "Management Consultant"
- "Oversight Body" means the Securities and Exchange Commission of Pakistan "SECP"
- "Reporting Entity" means Member(s) in Practice when they conduct any activity as specified in AMLA
- "Self-Regulatory Bodies or "SRB" means:
  - a. Institute of Chartered Accountants of Pakistan (ICAP)
  - b. Institute of Cost and Management Accountants of Pakistan (ICMAP)

## **Duties of Self-Regulatory Body (SRB)**

### **(1) Risk Based Approach**

Every SRB shall identify, assess and understand the ML/TF risks in its reporting entities, adopt a risk-based approach to exercise its supervisory functions and base the frequency & intensity of its on-site, off-site supervision and its outreach activities on the risk profiles identified under risk based approach.

### **(2) Supervision**

Every SRB shall,

- I. Pursuant to sections of AML Act, monitor & supervise compliance with the following requirements including ensuring that reporting entities have adequate policies, controls and procedures to implement those requirements in line with the ML/TF risks and introduce regulations pertaining to:
  - a. Risk assessment, mitigation and applications of a risk- based approach
  - b. Customer due diligence requirements; including but not limited to:
    - i. Requirements to identify and verify customers, beneficial owners
    - ii. Requirements to conduct ongoing monitoring
    - iii. Requirements to apply enhanced customer due diligence measures, including with respect to politically exposed persons
  - c. Internal controls requirements
  - d. Training and capacity building requirements
  - e. Duty to co-operate with competent authorities
  - f. Targeted financial sanction (TFS) requirements
  - g. Risk assessment and mitigating requirement for new products, practices and technologies
  - h. Requirements on reliance on third parties
  - i. Record-keeping requirements
  - j. Countermeasures requirements
  - k. Any other item as notified in the Act
- II. Apply suitable market entry controls to ensure that it does not professionally accredit accountants that are criminals or acting as an associate of criminal, or whose beneficial owner is a criminal or criminal associate.



# OVERSIGHT REGULATIONS FOR SELF- REGULATORY BODIES OF ACCOUNTANTS, 2020 (Contd.)

- III. Provide adequate resources with the appropriate qualifications, integrity and professional skills to carry out the supervisory, enforcement and outreach functions
- IV. Appoint a person to monitor and manage the compliance with its duties under the Act and Regulations made thereunder, to cooperate with authorities & to ensure that the SRB responds to any request from any AML/CFT regulatory authority about any reporting entity.
- V. Keep and maintain a record in writing of the actions it has taken in the course of performing its functions
- VI. Apply effective, proportionate and dissuasive sanctions to its reporting entities in accordance with the AML Act and its Rules regulating AML/CFT Sanctions 2020.
- VII. Establish and maintain policies, controls and procedures to mitigate and manage effectively the risks of money laundering and terrorist financing identified in risk assessments undertaken by the reporting entity.

### (3) Guidance and guidelines

SRB must take account of any guidelines issued by its relevant AML/CFT regulatory authority, the FMU, Ministry of Foreign Affairs (MOFA), Ministry of Interior (MOI) and NACTA.

### (4) Reporting of Suspicious Transactions

Every SRB must immediately report Suspicious Transaction Report (STR) to the FMU that it encounters during the normal course of its duties or functions and *this disclosure is not to be taken to breach any restriction*, however imposed, on the disclosure of information.

### (5) Independence and Confidentiality

Every SRB shall ensure that its functions are exercised independently of any of its other functions & sensitive information shall be handled with the confidentiality, in accordance with any relevant laws.

### (6) Coordination and Cooperation with authorities

Each SRB shall fully and rapidly respond to any request from any authority for information about any regulated person it supervises in relation to the implementation of the Act and any rules, regulations, directive and guidelines issued thereunder. Its Co-operation may include the sharing of information which the SRB is not prevented from disclosing.

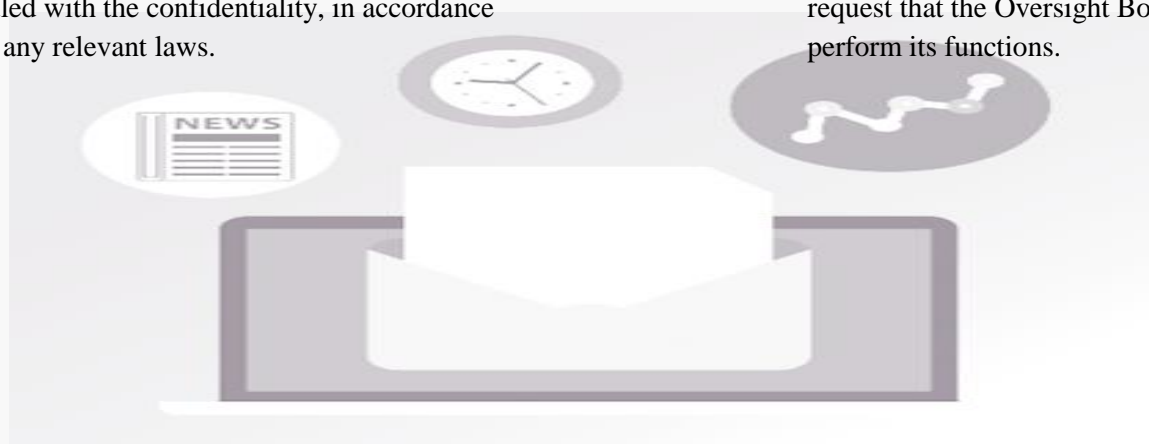
### (7) Guidance mechanism

Each SRB shall conduct ongoing outreach to reporting entities to promote a clear understanding of their AML/CFT and TFS obligations and ML/TF risks.

### (8) Supervisory Information

Each SRB must report annually to the SECP, regarding-

- i. Compliance with this regulation
- ii. The number of reporting entities who are individuals, and the number of reporting entities who carry out activities as specified in AMLA in specified sections.
- iii. The number of applications for membership which the SRB has received, rejected, and accepted.
- iv. The services provided by its reporting entities.
- v. The risk ratings of REs subject to the supervision of the SRB
- vi. The number, amount and type of sanctions it has imposed in relation to contraventions of relevant section(s) of SRB Regulations on its supervised reporting entities, including the reasons for deciding not to take disciplinary action in certain cases
- vii. Any other relevant information that upon request that the Oversight Body needs to perform its functions.



# OVERSIGHT REGULATIONS FOR SELF- REGULATORY BODIES OF ACCOUNTANTS, 2020 (Contd.)

## Functions of Oversight Body

It is entrusted with the following functions:

- **Approval of Regulations** – It shall approve any regulations issued under this regulation prior to those regulations coming into force.
- **Power to require information** –
  - It may require any information in such form as it may reasonably require.
  - Where the SECP requires information to be provided or documents to be produced, the notice must set out the reasons why the authority requires the information to be provided or the documents produced, unless the SRB is not permitted to disclose this information
- **Monitor and oversee** –
  - SECP shall monitor the SRB's compliance with its powers and functions in accordance with the Act and this Regulation.
  - It has the authority to order an examination or investigation into the SRB's activities as set out in this regulation. It can also appoint a skilled Person to investigate such matters.
  - The Oversight Body can impose charges on SRB for expenses incurred by the Oversight Body in relation to an appointment of skilled person.
- **Penalty** – Any SRB who contravenes or fails to comply with any provision of these regulations shall be liable to a sanction in accordance with the AML/CFT Sanctions Rules, 2020 issued and imposed by the SECP according to the AML Act.

## CODE OF CORPORATE GOVERNANCE FOR INSURERS, 2016

SECP has published the draft amendments to the Code of Corporate Governance for Insurers, 2016 vide S.R.O. 1085 (I)/2020 for invitation of public comments. The proposed amendments include changes in clauses pertaining to Related Party Transactions, Directors Training, Offenses and Penalties. It also suggested minor changes in its references & wordings according to the new issued Laws, Acts, Regulations and any other adopted & applicable publications.

## COMPANIES (DISTRIBUTION OF DIVIDENDS) REGULATION, 2017

SECP has notified a draft amendment to the Companies (Distribution of Dividends) Regulation, 2017 vide SRO 1113 (I)/2020, dated October 27, 2020. Through this SRO, it has proposed that in case shares of a company, whether listed or not, are held by a Non-Resident Shareholder having no designated bank account or Non-Resident Pakistanis having NRP Rupee Value Account (NRVA), the company may make payment of cash dividend to such shareholder in a manner and within such time period as may be allowed by the State Bank of Pakistan.

## INVITATION FOR COLLABORATION

We at 4M Business Consultants believe in collective learning and growth opportunities. Just as all feedbacks and suggestions to our newsletter are more than welcome, we are more than willing to collaborate with professionals from all spheres. If you wish to collaborate with us in any way, please feel free to reach out through any of the following means:

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