



PAKISTAN STOCK BROKERS ASSOCIATION

(A company setup under section 42 of the Companies Act 2017)

Regd Office: Mezzanine Floor, Trading Hall, Stock Exchange Building, Stock Exchange Road,
Off I.I Chundrigar Road, Karachi.

Tel: 021-32401278, E-mail: secretariat@psba.pk, Web: www.psba.pk, Fax: 021-32401279

PSBA/Notice-180

October 09, 2024

NOTICE FOR MEMBERS

TRANSFORMATION OF THE REGULATORY FRAMEWORK FOR SECTION 42 COMPANIES LICENSING & REGISTRATION DIVISION LICENSING DEPARTMENT

Dear Members,

This is in reference to the consultation paper dated October 07, 2024 (attached), whereby the SECP has invited the comments:

In this regard, the members are hereby requested to kindly submit your comments, if any, at psamail024@gmail.com latest by **October 21, 2024**, so that a consolidated response can be forwarded to the authorities for their consideration.

_____sd
AKBER ALI
Officer - Secretariat

Copy to:

1. PSBA Website



SECURITIES AND EXCHANGE
COMMISSION OF PAKISTAN

CONSULTATION PAPER

Transformation of The Regulatory Framework for Section 42 Companies

Licensing & Registration Division
Licensing Department



Section 42 companies are registered for the purpose of serving the marginalized and philanthropic areas. Considering the trust and confidence that the public imposes on the promoters/directors, it is critical to have an effective regulatory regime for such not for profit companies. The objectives of not for profit organizations are also served by entities that are not registered as company with SECP. In Pakistan there are multiple laws governing such organizations such as trust, societies, joint stock companies registered with respective provinces (under section 3 of the Companies Act, 2017) and others.

1. EXISTING REGULATORY FRAMEWORK & LANDSCAPE:

- 1.1 The Companies Act, 2017 (the “Act”): A Section 42 company is registered under the provisions of the Act, read with the Companies Regulations, 2024 (the ‘Regulations’). The objective of such companies as per the Act entails promoting commerce, art, science, religion, health, education, research, sports, protection of environment, social services, charity or any other useful object.
- 1.2 **Respective Provincial Charities Acts:** All Section 42 companies are required to get themselves registered with respective provincial charities commissions, except for, Balochistan and ICT.

A list of provincial charities acts is appended below:

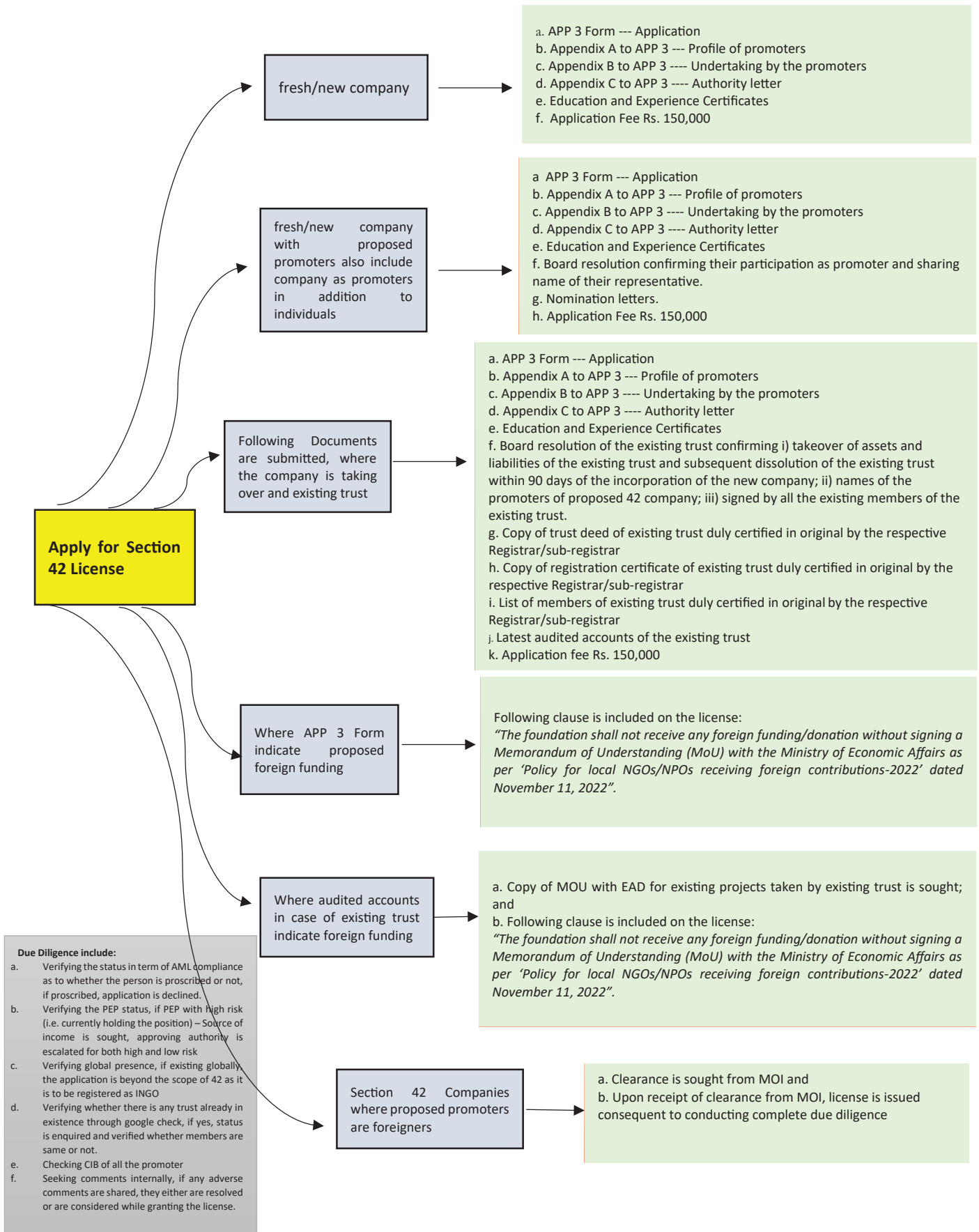
- i). The Punjab Charities Act, 2018;
- ii). The Sindh Charities Registration and Registration Act, 2019
- iii). The Balochistan Charities (Registration, Regulation and Facilitation) Act, 2019
- iv). KPK Charities Act, 2019
- v). The Islamabad Capital Territory Charities Registration, Regulation and Facilitation Act, 2021

The charities commission have been established with an aim to ensure that charities in Pakistan operate effectively, transparently, and in alignment with their stated missions, while safeguarding the interests of donors and beneficiaries. Following are the broad roles of the charity commissions as per their respective laws;

- i). Maintain public trust and confidence in charities;
- ii). register charities;
- iii). Protect charities and the beneficiaries thereof;
- iv). Ensure that charities and promoters comply with their legal obligations in exercising control and management of the administration of the charitable funds;
- v). Issue necessary advice to the charities and charity trustees;
- vi). Ensure effective use of charitable funds;
- vii). Institute a mechanism for effective monitoring and accountability of charities, promoters, collectors and recipients;
- vi). Hold, if necessary, an enquiry into the affairs of a charity or charitable fund;
- vii). Alter or set aside sanction of collection of funds;
- viii). Receive and examine annual audit report of a charity or charitable fund;
- ix). Conduct or cause to be conducted a special audit of a charity or charitable fund;
- x). Issue guidelines for proper accounting, management and utilization of a charity or charitable fund.

- 1.3 **Tax exemption status in light of Income Tax Ordinance, 2001;** Tax exemption certificates are issued to Section 42 Companies for claiming tax credit under section 100(c) of the Income Tax Ordinance, 2001, by the Commissioner FBR or Pakistan Centre for Philanthropy (“PCP”) as notified by FBR.
- 1.4 **Trusts or Societies registered under various Pakistan’s Trust Acts, Societies Act and others;** Trusts or Societies registered in Pakistan under various acts, if allowed by the respective laws, can be converted into a Section 42 Company. The conversion rate in the recent past is on an increasing trend because of amendment in the specific laws. The requirements for such conversions are specified in the Regulations.
- 1.5 **Ministry of Economic Affairs (MoEA);** MoEA vide Policy dated November 24, 2022 provides for mandatory requirement of signing of MOU between MoEA, the donor and the receiver of foreign funding with the exceptions listed in the policy. Accordingly, all Section 42 Companies receiving foreign funding are required to ensure compliance.
- 1.6 **Security Clearance from Ministry of Interior (MOI);** MOI vide correspondence dated October 24, 2000 instructed to seek clearance from MOI where foreign funding is involved, while processing application of seeking registration under Section 42 of the Act.
- 1.7 **Clearance from Pakistan Sports Board and Ministry of Religious Affairs;** Pursuant to standing instructions of Ministry of Inter Provincial Coordination, Government of Pakistan, Islamabad vide letter dated February 10, 2022, no case of registration is processed without NOC of PSB, in order to ensure registration of genuine National Sports Federations (NSFs)/Sports Bodies. Similarly, in the matter of applications for constitution of Madaris and allied issues, NOC is to be obtained from Ministry of Religious Affairs.
- 1.8 **Use of word “Nation” and associated words including Pakistan;** Pursuant to the decision of the Cabinet in its meeting held on April 17, 2024, the use of name of “National” or any similar sounding word that gives the impression of a “government” or “public sector” entity is prohibited to be used by any private entity.

2. EXISTING PROCESS FLOW FOR A SECTION 42 COMPANY



3. ISSUES/PROBLEM STATEMENT

3.1 Province-wise Registration of Section 42 Companies; As per available record, there are 1269 licensed Section 42 companies as of September 5, 2024. Region wise breakup of Section 42 Companies is tabulated below;

Description	Faisal - abad	Gilgit	Islamabad	Karachi	Lahore	Multan	Peshawar	Quetta	Sukkur	Not Incor- porated	Total
Licensed Entities	21	7	539	262	289	34	48	14	6	35	1269

The above tabulated data highlights that ~42% companies are incorporated in Islamabad; ~23% in Lahore and ~21% in Karachi. ~16% of the license holders have been certified by PCP and ~4% of the license holders have MoUs signed with MOEA w.r.t foreign funding. The above indicates compliance issues and need to be addressed.

3.2 Section 42 companies are registered at the neighborhood to city, district and national level. However, the public doesn't have access to the detail as to whether any section 42 company is operating and licensed within their vicinity, neither any details in terms of the purpose or the objective that section 42 company is serving is available with them. Meaning thereby that donation providers and contributors have no knowledge or access to such data from which they can identify the entities operating in their areas/cities/provinces for a certain cause.

3.3 Section 42 companies utilize public funds for specific cause; the money is a trust money solicited and received for promotion of the objective(s) or purpose, either from individuals (or groups of individuals) in society, corporate entities, governmental entities or international organizations. The obligation to deliver or perform specified service or work according to purpose of donations/contributions from individuals or institutions create:

- a moral obligation, by whichever way it is received;
- a legal obligation to use the funds for what it was solicited; and
- a responsibility for the companies to provide visibility and transparency on the utilization and spending patterns;

3.4 Lack of documentation – integration of multiple regulatory authorities – In Pakistan, as stated a section 42 company is required to be licensed with SECP, register a company, open a bank account, seek tax exemption from FBR (either through Commissioner FBR or PCP), have to register with respective Provincial Charities Commissions, sign an MoU with EAD in case of receipt of foreign funding. None of these are integrated with each other and therefore have no information w.r.t each other's data regarding section 42 companies.

3.5 Since the license of section 42 company is granted considering the profile of the promoters it becomes evident that the same expertise continue to effectively discharge the objective, the section 42 company initially intended for or in case it subsequently changes its object. However, consequent to the license there is no requirement that ensures or monitors that the directors on board have the requisite expertise and experience.

3.6 Because of amendments in Trust and Societies Acts, a large number of organization intend to convert them to section 42 company and as a consequence existing trust or society is to be revoked within certain period, however, the mechanism to ensure that the same is complied has not been enunciated and need to be addressed in the regulations.

3.7 If a section 42 company intends to revoke or is being revoked, the revocation process is not smooth and take number of years to complete.

4. WAY FORWARD TO ADDRESS THE PROBLEM STATEMENT

4.1 Proposed Regulatory Amendments in the Companies Regulations 2024

Proposed amendments have been classified in accordance to the corporate governance behavior each would lead to:

A. Competent management and good governance

- i). Annexure – A provide proposed standardization of the object clause and also the of requirement education as specified against each. In addition to the relevant resource for the standardized object clause it is proposed that at least 3 of the promoters should be graduate in addition to the requirement that CEO of the company must possess relevant experience in the principal line of business.
- ii). All the directors/promoters/CEO must have active tax payer status;
- iii). Since the license is granted considering the profile of directors, it seems imperative that approval of appointment or reappointment of directors and CEO either consequent to the elections or creation of casual vacancy be obtained from the Commission.

B. Conversion of existing trust/societies to Section 42 Companies

- i). Any society or trust registered under any framework cannot act as promoter, however, existing trust/society can be taken over by the proposed section 42 company.
- ii). In case of existing trust/society being combined with 42 company, the existing trust shall be dissolved within 90 days of the Incorporation of the company and evidence of the same to be provided to the Commission, post takeover of the existing trust/society auditor certificate shall be submitted by the section 42 company;
- iii). Description of takeover assets and allied details to be made part of the application form based on the audited accounts.
- iv). If an existing trust is not dissolved within 90 days of the date of incorporation of section 42 company, license revocation process shall be initiated leading to striking off of the company.

C. Transparency and reporting requirements

- i). QCR rated auditor is being considered to be made mandatory for the audit of different sized companies.
- ii). Reporting of Foreign Funding on annual basis, with filing being mandatory even in case of NIL foreign funding during the period;
- iii). PCP certification is being considered to be made mandatory every three years for certain sized section 42 companies.

D. Aligning the framework

- i). In case foreign funding is planned to be received at the time of application, MOI clearance shall be a pre-requisite for license. In case, foreign funding is received subsequent to the grant of license, the company shall only receive such funding consequent to security clearance from MOI.

- ii). The section 42 company shall not receive funding/foreign funding from black listed International NGOs (INGOs) or INGOs having operations in Pakistan and not registered as INGOs in Pakistan.
- iii). Application Programming Interface (API) is proposed to be created between SECP and Charities Commissions, PCP, MoEA and FBR for information sharing.
- iv). Every section 42 company shall mandatory register with the respective provincial Charities Commission and provide evidence of the same within 6 months of incorporation. For existing section 42 companies, they need to comply with the requirement within 1 year of promulgation;

E. Website maintenance:

- i). Maintenance of websites, with the information as specified in Annexure – B.
- ii). Publication of lists of licensed entities on SECP's webpage along with their compliance status, their object and scope, and area/city of services provided.

F. Awareness campaign for ensuring compliance

- i). Targeted outreach and awareness sessions for NPOs about applicable regulatory requirements;

G. Reviewing the revocation process

- i). To extend the period for transfer of assets of the company, after satisfaction of all debts and liabilities, is proposed to be revised from within ninety days from the date of revocation of licence to one year. This requires amendment in the Companies Act, 2017, section 43(1)(c).
- ii). To allow transfer of assets of the company whose licence has been revoked to any other not for profit entity, registered under any other law for registration of NGOs, whether or not having similar or identical objects. This requires amendment in the Companies Act, 2017, section 43(1)(c)

5. FEEDBACK ON THE WAY FORWARD SUGGESTED AND OTHER DETAILS IN THE PAPER

Feedback on the below listed areas is being desired:

- 5.1 What should be the size classification for section 42 companies;
- 5.2 Based on the proposed size classification in para 5.1, for which size/(s) PCP certification and QCR Rated auditor should be mandatory;
- 5.3 What additional requirement should be placed on webpage of the section 42 company (refer Annexure B);
- 5.4 Comments on Annexures A in terms of standardization of objects and
- 5.5 What practical issues the sector face in terms of revocation of section 42 company;
- 5.6 Input/comments of the suggestions included at para 4 above.

Input and response may be sent via email to Licensing & Registration Department (LRD) at **regulatory.framework@secp.gov.pk** as per below format:

Name			
Name of the Regulated Entity (if applicable)			
Sr. No	Para reference	Views/Proposed Changes	Rationale
Confidentiality			
If you wish to keep all or any part of your submissions and your identity confidential, please indicate the same. In all other cases, your provided comments can be made public, except your contact information.			

6. INDICATIVE TIMELINE

Stage	Date/Timeline	Detail
1	07-10-2024	Publication of Consultation paper
2	Within 15 days of publication of Consultation Paper and placement of same on SECP website	Public comments period
3	Within 30 days of receipt of comments on the Consultation Paper	Consultation sessions
4	Within 30 days of conclusion of consultations	Notification of the draft amendments

Sr. No	Nomenclature	Standardized Object	Minimum Qualification Required	Experience Required
1	General - Charitable/Philanthropic activities	<ol style="list-style-type: none"> 1) To distribute ration, food and clothes to the poor, needy, destitute and persons suffering from catastrophes, natural calamities/tragedies, accidents etc., irrespective of cast and creed and religion. 2) To provide donations and financial help (other than loan) to the poor, needy and the destitute, for alleviation of their standard of life. 3) To provide free or at subsidized rates, books and stationary items to the students of poor families irrespective of cast creed and religion. 4) To provide scholarships to students and grant aid including supply of books, stipends, medals, prizes, grants, awards, medicines, educational career support, bursaries and other incentives for purposes of advancement of knowledge, education and literacy. 	Bachelors	3 years business experience or working experience
2	Health related services/activities	<ol style="list-style-type: none"> 1) To aid, assist, set up, maintain, administer and run hospitals, nursing homes, mother and child care centres, clinics, dispensaries, immunization and vaccination centres and places of medical aid, convalescent homes, family planning centres, X-ray clinics, radio therapy centres, pathological and clinical laboratories, blood banks, eye banks or other centres connected with the care of the human body, both in urban and rural areas subject to approval/permission, NOC, if any, from relevant authorities/government departments, etc. 	MBBS and/or specialization in specific field	3 years specific experience in the field of medicine

		2) To provide free or at subsidized rates medicines, laboratory tests facilities or assistive devices to the poor, needy, crippled or disabled persons or to provide financial help to them (other than loan) for their laboratory tests, medicines or assistive devices etc., irrespective of cast creed and religion.		
3	Education	1) To establish, manage, maintain, own, administer, promote and subsidize educational institutions, computer literacy centres, schools, colleges, institutions for study and research, centres of learning, reading rooms, and other institutions for basic education, adult literacy, advanced studies and other educational fora with the permission of competent authority but not to act as a degree awarding institute.	Bachelors	3 years specific experience of teaching or being principal or vice principle
4	Special Education activities	1) To establish, own, maintain, erect, construct, furnish, equip, promote, organize, manage and run institutions for special education and to provide grants and facilities for education and training to the persons who are mute, deaf, dumb or blind, crippled or otherwise physically or mentally handicapped and to provide books, proper medical attendance, nursing, food, medicine, drugs and special appliances of educational, surgical, or other nature	Bachelors or specific education	3 years specific experience or education in the special education field
5	Vocational training/Institute	1) To establish promote, run, manage and maintain vocational educational and training and skills development institute in order to reduce unemployment, raise income, and improve the standard of living and enabling the unemployed people to get quality jobs and to earn their livings through such hands-on career development skills. 2) To work for employable skills development and capability enhancement of the youth for improving their quality of life, including developing, building and enhancing their skills to attain self-sufficiency	Bachelors with specific skill being offered for vocational training.	3 years specific experience of vocational trainings

6	Research related activities	1) To undertake steps for promotion of research and to make available key knowledge tools such as a well-equipped library; database and electronic connectivity, a website for research publications and interaction; to organize and set up a think tank; and to enable discussion/dialogue for promoting quality research.	Bachelors	3 years specific experience of research conducting or M-Phil or PHD in the specific area with publication
7	Islamic Religious activities	1) To promote the values of Islam and in view thereof to initiate research, analytical study, seminars, talks and discussions and to promote public awareness, education and understanding of Islamic ideology, economic system and philosophy and to encourage research scholars, specialists, experts, writers, speakers, thinkers for free intellectual interaction and to develop consensus and understanding in vital Islamic issues, but not to act as or establish, run or manage Deeni Madrassa.	Bachelors	3 years specific experience. Clearance/No C from DG Religious affairs and MOI if it includes running of Madrassa
8	Masajid & Madaris	1) To promote the values of Islam by establishing, running or manage Deeni Madrassa and/or Masajid	Bachelors	3 years specific experience. NoC from DGRE and MOI Clearance is required.
9	Women Empowerment	1) To work for the cause of women empowerment that helps in boosting the status of women through literacy, education, training and awareness; to strive for eradication of all forms of exploitation and discrimination against women	Bachelors	3 years specific work experience highlighting contributions
10	Social Infrastructure and Human Resource Development	1) To work for development of human resources, promotion of social and economic well-being of the masses, improvement of social status, social mobilization for prosperous society, and elimination of gender discrimination particularly in the rural areas of Pakistan	Bachelors	3 years specific work experience or M-Phil or PHD in specific research work

11	Arts, Sciences and Literature activities	1) To promote and foster study in arts, sciences, literature and to give literary, arts and sciences awards, scholarships and prizes for its encouragement	Bachelors	3 years work experience in specific object area
12	Culture and heritage activities	1) To undertake, aid, support, assist, promote, manage, research and encourage projects or programmes concerned or dealing with the restoration, conservation, revitalization, preservation and reuse of architectural structures, buildings, forts, palaces, mausoleums, monuments, mosques, places of historical or cultural significance, archaeological sites, town squares, markets, gardens and parks in Pakistan	Bachelors	3 years work experience in specific object area
13	Environment Protection & Climate Change	1) To work for the protection, conservation, rehabilitation and improvement of the environment, in particular climate change mitigation, education, international understanding and development cooperation; to work for the prevention and control of every kind of pollution; to create awareness about environmental risks and concerns in the country and the benefits associated with the developmental projects addressing environmental challenges and to provide assistance to individuals, local groups, in understanding environmental issues; to raise awareness and educate the public in particular through seminars, workshops, campaigns	Bachelors and/or specific area education	3 years work experience in specific object area
14	Sports related activities	1) To promote and develop centres for sports and sporting activities and encourage talent thereto and through them endeavour to bring about national integration and provide fields, grounds and other facilities and amenities including coaching and training facilities in developed and developing areas of the country and to promote and organize activities such as, trekking, mountaineering, hunting, archery, camping, fishing, rock climbing and other outdoor sports, subject to approval/permission/NOC from relevant authorities/government departments, Pakistan Sports Board etc., if required.	Bachelors	3 years work experience in specific object area License shall be granted after obtaining NoC from Pakistan Sports Board

***Relevant education and experience has to be substantiated by provided requisite duly attested certificates**

Following minimum information in English and Urdu languages on website, in addition to any other material information:

Profile of Company

- a. Vision, mission, principle business and other permissible business activities;
- b. Status of company (e.g. PIC, LSC, MSC or SSC under third schedule of the Act);
- c. Company Registration Number/Date and National Tax Number;
- d. Date/Number of license issued to the Company by the relevant authority where required;
- e. Address of registered office, head office and all other branch offices;
- f. Phone and fax numbers of head office, registered office and branch offices;
- g. Valid email address; and,
- h. Detail of subsidiaries/associated companies and their website links, if available.

Governance

- a. Profile of the Board of Directors;
- b. Shareholding pattern of companies having share capital;
- c. Name of Auditor of the Company; and,
- d. Name of Legal Advisor.

Investor Relations

- a. Purpose/ Objective;
- b. Geographical location of operations;
- c. Details of sponsors;
- d. PCP Certification, if applicable;
- e. Registration status with respective charities commission; and
- f. Placement of audited financial statements of at least three years.
- g. Online form/contact details of person(s) designated by the company for assisting and handling investors' complaints and grievances;
- h. Updated logo of SECP Service Desk Managements System's ("SDMS") duly linked to the URL: <https://sdms.secp.gov.pk/> (the logo is available at www.secp.gov.pk/document/revised-sdms-logo/) along with the following disclaimer: "In case your complaint has not been properly redressed by us, you may lodge your complaint with Securities and Exchange Commission of Pakistan (the "SECP"). However, please note that SECP will entertain only those complaints which were at first directly requested to be redressed by the company and the company has failed to redress the same. Further, the complaints that are not relevant to SECP's regulatory domain/competence shall not be entertained by the SECP."
- i. Corporate Social Responsibility Reports, if any;
- j. Notices of general meetings;
- k. Copy of any notice given by the member (having not less than ten percent shareholding in the Company) proposing appointment of auditor (s) of the Company in the annual general meeting;
- l. Site map; and,
- m. Search facility.

Media

- a. National /International Awards, recognition, if any;
- b. Membership of industry associations and trade bodies, if any;
- c. Any other announcements or clarifications issued by the company; and
- d. Last Date on which website was updated.

Information to be provided at homepage of website

- a. Website link of SECP’s investor education portal “JamaPunji” (www.jamapunji.pk) along with its logo at a prominent place on the homepage; and,
- b. Information of companies’ own complaint handling cell and contact person(s) at a prominent place on homepage as a primary point of contact



**SECURITIES AND EXCHANGE
COMMISSION OF PAKISTAN**

NIC Building, Jinnah Avenue, Blue Area, Islamabad.
www.secp.gov.pk