

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

Bilal Farooq Zardi
Secretary General

Ref: PSBA/N0721-01

July 30, 2021

Mr. Muhammad Lukman
Chief Executive Officer
National Clearing Company of Pakistan Limited
Karachi.

Subject: **IMPOSITION OF PENALTIES AND FEES ON CAPITAL GAIN TAX**

Dear Sir,

Concerning the subject captioned above, we wish to convey the concerns of our members in light of the National Clearing Company of Pakistan Ltd (NCCPL) Regulations 2015 as under:

Please refer to Chapter 28 of the NCCPL Regulations preamble of which states that:

Whereas, the National Clearing Company of Pakistan Limited ("Company") has been entrusted under the Ordinance ("the Ordinance"), for the computation, determination, collection, and payment of Capital Gain Tax into the Government Treasury arising from the disposal of listed securities' transactions as provided under the Ordinance and the Rules made thereunder.

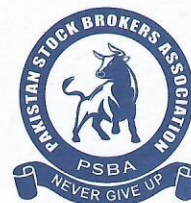
And whereas, the Company has established a capital gain tax system ("CGT System") under the NCCPL Regulations;

And whereas, the Company made and notified the NCCPL Regulations pertaining to CGT System for computation, determination, collection of CGT, to all its Clearing Members, asset management companies and PMEX;

And whereas, Regulation 22.1 of the National Clearing Company of Pakistan Limited Regulations 2003, permits the Company to make amendments to, including additions to or deletions from such Regulations, and Memorandum of Association of the Company permits the Company to make any new, amended, or additional Regulations; And whereas, the Company, through its CGT System, shall compute and determine capital gain or loss, as the case may be, on Market-based and non-market-based trades/transactions of listed securities, futures and derivative products/contracts and units of funds or schemes in accordance with section 37(A) read with 100(B) of the Ordinance and the Rules.

The first and fourth proviso of the above preamble clearly reflects that NCCPL has been entrusted under the Income Tax Ordinance by the Federal Board of Revenue (FBR).

The word **entrusted** has a clear meaning of assigning responsibility to someone by somebody. Therefore, when FBR has entrusted then all the fees and/or charges incidental thereto, by whatever name called, should also be borne by FBR which cannot and should not



be passed on to the public at large. It is astonished that the taxpayers are being penalized for the tax payments they made.

We also wish to draw your attention to the legality of Regulation 28.10.5 as follows:

1. The statement made in 28.10.5 is incorrect; and
2. Being a withholding agent, entrusted to perform functions as elaborated in the preamble of Regulation 28, NCCPL cannot and should not penalize the Clearing Members who make their efforts on behalf of NCCPL.

Moreover, a bare reading of 28.7.2 of NCCPL Regulations states that the only obligation of the National Clearing Company is to facilitate the members with regards to the computation, determination, collection, and deposit of CGT. Then we failed to understand that from where the penal action comes from while NCCPL is only a facilitator.

Therefore, we request your authority to attend to this issue of great importance to the Investors fraternity.

Please feel free to contact us in case of any further discussion.

Regards,

A handwritten signature in blue ink, consisting of several loops and flourishes, is written above a horizontal line.