

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/P0721-02

July 08, 2021

MR. FARRUKH KHAN
Chief Executive Officer
Pakistan Stock Exchange Ltd
Karachi

Subject: FUTURES ELIGIBILITY CRITERIA FOR SELECTION OF SECURITIES ELIGIBLE FOR TRADING IN DELIVERABLE FUTURES CONTRACT (DFC) AND CASH SETTLED FUTURE CONTRACT (CSF) MARKETS

Dear Sir,

Further to our discussions in respect to the subject matter, we would like to submit that the management of the Pakistan Stock Exchange (PSX) has removed many companies from the DFC market based on the stated criteria.

In this regard, market participants have approached this Association, and accordingly, after consultation, we raise our concerns.

Cause of Action:

1. Investors lost substantial amount as the securities which were not carried in Future Contracts lost interest;
2. Market participants lost huge revenues due to the exclusion of these scrips.

Clause 4.1 - Eligibility Criteria

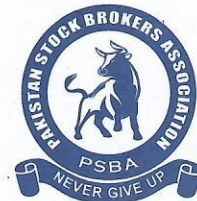
For ready reference, we reproduce below:

- Securities of companies in the list after step (3) not complying with the following conditions, to be ineligible:**
- (i) **No investigation/inquiry has been concluded against the company with adverse findings of mismanagement or the company has not obtained stay order from Court against any inquiry/investigation initiated by the Commission;**

Clause 4.1, as reproduced above is a **non-liquet** based on which the steps taken by PSX management are *ultra vires*.

We believe that:

- Clause 4.1 categorically states the word **following conditions**;
- Two conditions mentioned in Clause 4.1(i) are:
 - No investigation/inquiry has been concluded against the company with adverse findings of mismanagement;
 - The company has not obtained stay order from Court against any inquiry/investigation initiated by the Commission



Please allow us to read Clause 4.1 with the second condition only as follows:

- *Securities of companies in the list after step (3) not complying with the following conditions, to be ineligible, if the company has not obtained stay order from the Court against any inquiry/investigation initiated by the Commission;*

Hence, in other words, if the company has obtained stay order it should not be declared ineligible.

We would like to apprise you that this change was not part of the proposed amendment made vide notice PSX/N-1151 dated October 19, 2020, hence, due process has not been observed.

Thereafter, on our inquiry, the PSX letter dated June 28, 2021, revealed that two scrips were declared ineligible just because they obtained stay order against SECP inquiry/investigation.

Furthermore, the eligibility criteria in a non-liquet as rights and privileges given to the Citizens of Pakistan, under the mother law, **The Constitution of Pakistan**, cannot be overridden with any other rules, regulations, laws, etc. by whatever name called.

It is an accepted principle of the Constitutional Jurisprudence that a Constitution, being a basic document, is always treated to be higher than other statutes, and whenever a document in the shape of law given by the Parliament or other competent authority is in conflict with the Constitution or is inconsistent then to that extent the same is liable to be declared unconstitutional. (PLD 2006 SC 697)

In view of the urgency of the matter due to the rollover week, remedial action be taken immediately but not later than COB Monday July 12, 2021, failing which, the Executive Committee of this Association has unanimously decided to seek legal remedy from the Court of Law.

Warm regards,

Cc: Mr. Aamir Khan - Chairman - SECP.