

# 2013

## The Pakistan Business Council

### Research Unit



## [COMPARISON OF THE DRAFT ASSOCIATIONS NOT FOR PROFIT (LICENSING AND CORPORATE GOVERNANCE) REGULATIONS, 2013 (SRO 301 (I)/2013) WITH PREVALING LEGISLATION IN UK, INDIA SINGAPORE & MALAYSIA]

In June 2013 the SECP proposed The Draft Associations not for Profit (licensing and corporate governance) Regulations, 2013. The purpose of these regulations is to further define the practices and regulations pertaining to Section 42 companies as defined in the Companies Ordinance 1984. The SECP at various forums has stated that the proposed regulations are in line with those applied to similar companies in other jurisdictions. The research unit at the Pakistan Business Council (PBC) has prepared a comparison of the various sections and clauses in the proposed Regulation with existing law in other prominent Common Law countries.

**Disclaimer:**

The findings, interpretations, and conclusions expressed herein are those of the Management and do not necessarily reflect the views of the Board of Directors and Members of the Pakistan Business Council or the companies they represent. Although every effort has been made to verify the authenticity of the data used, the Pakistan Business Council does not guarantee the data included in this work.

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### **Background:**

The Draft associations not for profit (licensing and corporate governance) regulations, 2013 (SRO 301 (i)/2013) has made several noticeable changes in the regulations governing Section 42 companies (Companies Ordinance 1984). Several additions have been made in compliance and other areas which have the potential to hinder the running of such institutions and place substantial financial burden on the concerned companies. This might result in the abstinence of organizations registering under Section 42 and the reversion of existing Section 42 companies to other forms.

### **Rationale for preparation of this comparison:**

This comparison of the Draft associations not for profit (licensing and corporate governance) regulations, 2013 has been done to check whether the regulations proposed are in line with global laws and practices and if so what sort of compensatory benefits the governments are providing to encourage such organizations. We also want to highlight clauses that appear unfavorable to corporate practices. The Pakistan Business Council (PBC) believes where amendments are proposed in existing legislation these need to be debated, before enactment, for better parity, clarity and ease of implementation.

### **Why have you received this document?**

The PBC has shared this document with you as part of its efforts to build a consensus on the various provisions of the Regulation. It is the PBC's view that entities, professionals and other stakeholders who are likely to be impacted by this Regulation need to voice their concerns , if any prior to it becoming part of the Law. You are therefore encouraged not only to comment on the Regulations as presented, but also suggest amendments/additions which might help make this law more relevant.

### **What will happen to your input?**

Your input will initially be collated and a summary prepared of the various suggestions/comments received. In the next stage this will be debated and finalized by the PBC's Legal Committee before being submitted to the PBC Board for final review/approval.

### **What if you need any additional information?**

You are welcome to call the Research Unit of the PBC on 021 3563 0528/9, Fax on 021 35363 0530 or email us at [samir@pbc.org.pk](mailto:samir@pbc.org.pk) and [mustafa@pbc.org.pk](mailto:mustafa@pbc.org.pk)

### **How will your contributions be acknowledged?**

Unfortunately there are no material benefits for your contributions, however depending on the quality of your input, you may be invited by the PBC Legal Committee to its meetings and your contribution will be acknowledged in the final advocacy document that will be prepared.

### **What is the Pakistan Business Council (PBC)?**

The Pakistan Business Council (PBC) is a Section 42, Not-for-profit company setup as a business policy advocacy forum in 2005 by 14(now 42) of Pakistan's largest businesses including multinationals. The PBC is neither a trade association nor an sector specific body and as such only takes up issues which impact the broader national business environment.

The PBC is run by a fulltime paid CEO who reports to the Board of Directors, the Board consists of 14 directors including the CEO who are elected by the executive members. The PBC follows to extent possible the Code of Corporate Governance as applicable to listed companies.

The PBC's objectives include among others:

- To provide for the formation and exchange of views on any questions connected with the conduct of business in and from Pakistan.
- To interact with governments in the economic development of Pakistan and to facilitate, foster and further the economic, social and human resource development of Pakistan.

More information on the PBC, its objectives and some of the current/past issues with which the PBC has been involved can be viewed at its website:

[www.pbc.org.pk](http://www.pbc.org.pk)

## **Executive Summary:**

The Securities and Exchange Commission Pakistan (SECP) is the primary regulator of the corporate sector in Pakistan and its responsibilities include the development of a modern and efficient business environment conducive to the growth and prosperity of its regulated organizations. For the Regulations proposed in the Draft associations not for profit regulations, 2013 the Pakistan Business Council (PBC) suggests that some changes proposed place a tremendous burden of monetary and manual work on Section 42 companies which could lead to a negative impact on the Not-for-profit companies.

PBC supports the SECP in its efforts to setup a mechanism which leads to greater transparency and to have in place a well defined set of regulations for Section 42 companies. The PBC however recognizes that these regulations should be simple to comply with. Our comparison with prevalent regulations and laws in UK, India, Malaysia and Singapore suggest that the regulators in other jurisdictions have tried to facilitate and foster the growth of such companies rather than place further burdens upon such organizations.

When taking into account the Draft Regulations 2013 it becomes apparent that some sections could potentially hamper the smooth operations of Section 42 Companies whether new or old. Examples of this can be seen in Section 18(2) where it has been made obligatory for all Section 42 companies to keep donor registers with complete amounts, names and addresses. In case of most organizations this is not possible as they use donation boxes for anonymous contributions which are not traceable, other organizations receive amounts in donations ranging from Rs. 1 to any amount and recording each transaction will be time consuming and require a dedicated workforce the costs might not justify the effort involved. . Also what needs to be taken into account is that although they are generating money through donations and grants the donors prefer that their money be spent on the cause they are sponsoring as opposed to administration expenses such as salaries and in-house trainings. Due to transparency in operations the Section 42 companies cannot refrain from declaring expenses to the donors and the fear is that the donors will not go to any organization that utilizes huge amounts of the donations for their own expenses. Also in Section 15 Director orientation courses have been made mandatory, these are very costly and will again cause a drain on the limited resources of such nonprofit companies.

It is observed that there are less procedural hurdles in other markets where such organizations flourish, in the case of the Draft Regulations 2013 these have been increased as seen in Sections 3, 9, 10, 11 and 17.

Section 3(1) states:

*“(1) All Associations licensed under section 42 of the Ordinance and registered with the Commission with limited liability at the time of coming into force of these Regulations, shall comply with all the requirements of these Regulations within a period of six month from the date of notification of these Regulations in the Official Gazette.”*

This section requires the proposed changes to be enforced within Six months (6) this may not be possible for most companies as this time period is too short to bring about the proposed changes in the given time (e.g. the employment of independent directors, keeping extensive books of accounts including list of donors, etc...) the limited resources of the companies have not been taken into account when such limits are being set and these will hamper the activities of the companies.

Section 9(1) States:

*“(1) The Board shall have a balance of executive and non-executive directors, including independent directors and those representing donors and other stakeholders interests with the requisite skills, competence, knowledge and experience so that the board as a group includes core competencies and diversity considered relevant in the context of the association’s operations”*

Section 9 is titled “composition of the Board” and it describes in detail the constituents of the Board of Directors making it a requirement for Section 42 companies to have a balance between Executive and Non-Executive directors. What has to be realized at this is point is that according to the Companies Ordinance a Director of a Section 42 company is not entitled to remuneration and thus they do not have Executive directors.

The second part requires the board to comprise of individuals who have relevant experience in each field the company is catering to nullify the rights vested in the board by Section 178(6) of The Companies Ordinance, 1984. Consideration should be made that these voluntary organizations will find it difficult to identify and engage such individuals as they can offer no financial benefits in return for services.

Section 10 states:

*“Any casual vacancy on the Board shall be filled up by the directors at the earliest but not later than ninety days thereof.”*

As seen through the comparative such a requirement does not exist in UK, India, Malaysia or Singapore.

Section 11(3) states:

*“(3) The chairman and the chief executive officer (CEO), by whatever name called, shall not be the same person except where provided for under any other law. The chairman shall be elected from among the non-executive directors of the association. The chairman shall be responsible for leadership of the board and shall ensure that the board plays an effective role in fulfilling all its responsibilities. The Board shall clearly define the respective roles and responsibilities of the chairman and chief executive.*

*Provided that a Small-Sized Association shall not be required to split the positions of the chairman and the chief executive officer.*

*Explanation.- “Small-Sized Association” in this chapter means an association having net assets not exceeding ten million rupees or gross annual donation not exceeding fifty million rupees as per annual audited accounts of any of the preceding last five years.”*

This sub section is in contradiction to many International and local laws that provide for the CEO and the Chairman of the Board to be the same person. Section 11 requires that the Board of Directors form policy on stated matters which demands high volumes of time. What should be recognized for these sections is that the Board comprises of persons who are entitled to no remuneration or profits for their services but are there voluntarily for purpose(s) the company was established for. Demanding such time consuming activities from these members as part of Law can be viewed as unjust and discouraging to philanthropy.

Section 17(2) states:

*“(2) No person shall be appointed as the company secretary of an association unless he meets the qualification criteria prescribed under rule 14B of the Companies (General Provisions & Forms) Rules, 1985.”*

It is demonstrated in this Section once again that the problems being faced by Section 42 companies are not being taken into consideration as most times one of the Board Members in Section 42 companies assumes the role of the Company Secretary voluntarily receiving no remuneration in return.

Such provisions are not found in international law and could be seen as procedural hurdles that do not exist in other countries and likely to encourage Section 42 companies to register under different jurisdictions or to register as Societies or charities which have less procedural and administrative hurdles.

It was revealed by the Social Policy and Development Center (SPDC) in 2002 that the government only contributes 6% of the cash revenues of Non Profits as a whole (NRSP, PBF, PPAF, etc...). Most of which are aimed at social welfare organizations and next to no funding is available for social and political advocacy forums. Before such stringent measures are imposed on the already wavering nonprofit industry in Pakistan it should also be taken into consideration that the government does not provide any relief to such companies in monetary terms . The only easement in Pakistan was provided by legal means which will also be removed if such regulations are enforced.

Pakistan Center for Philanthropy (PCP) provides certification for nonprofit organizations which ensures compliance to local and international laws and is needed to obtain tax exempt status. Most nonprofits are certified by PCP as they provide a uniform standard of quality to assure donors their finances are safe. It is observed that PCP's compliance policies are accepted and employed by most nonprofits. This model ensures transparency and might be viewed as a guideline for future formation of policy as it is already an implemented system in Pakistan and is ensuring transparency and compliance.

The comparison in the following pages summarizes a general structure of other progressive jurisdictions and highlights those sections in the Draft Regulations 2013 which need clarification and/or reasonable grounds for their enactment. It is necessary for all stake holders to be aware of the compliance and operational issues they may face due to the enactment of these Regulations.

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NO.	REGULATION NO.	<b>PAKISTANI REGULATIONS (Proposed)</b>  <b>Draft Associations Not for profit (Licensing and corporate governance) Regulations, 2013 (SRO 301(I)/2013)</b>	<b>INDIAN REGULATIONS</b>  <b>The Companies Bill 2012</b>	<b>MALAYSIAN REGULATIONS</b>  <b>Companies Act 1965 (Amended 2007)</b>	<b>UK REGULATIONS</b>  <b>Companies (Audit, Investigation &amp; Community Enterprise) Act 2004</b>	<b>SINGAPORIAN REGULATIONS</b>  <b>Companies Act 1967 (Revised 2006)</b>	<b>COMMENTS</b>
1.	3 Compliance of existing section 42 companies, etc...	<p>(1) All Associations licensed under section 42 of the Ordinance and registered with the Commission with limited liability at the time of coming into force of these Regulations, shall comply with all the requirements of these Regulations within a period of six month from the date of notification of these Regulations in the Official Gazette.</p> <p>(2) The provisions of these Regulations shall have effect notwithstanding anything contained in the memorandum or articles of an Association, or in any contract or agreement executed by it, or in any resolution passed by</p>	Not Present	<p>(1) Where it is proved to the satisfaction of the Minister that a proposed limited company is being formed for the purpose of providing recreation or amusement or promoting commerce, industry, art, science, religion, charity, pension or superannuation schemes or any other object useful to the community, and will apply its profits, if any, or other income in promoting its objects and will prohibit the payment of any dividend to its members, the Minister may (after requiring, if he thinks fit, the proposal to be advertised in such manner as he directs either generally or in a</p>	<p>(1) If a company is to become a community interest company, the company must—</p> <p>(a) by special resolution alter its memorandum to state that it is to be a community interest company,</p> <p>(b) by special resolutions under the Companies Act 1985 make such alterations of its memorandum and articles as it considers necessary to comply with requirements imposed by and by virtue of section 32 or otherwise appropriate in connection with becoming a community interest company, and</p> <p>(c) by special resolution change its name to comply with section 33.</p>	<p>(1) Where it is proved to the satisfaction of the Minister that a proposed limited company is being formed for the purpose of providing recreation or amusement or promoting commerce, industry, art, science, religion, charity, pension or superannuation schemes or any other object useful to the community, that it has some basis of national or general public interest and that it is in a financial position to carry out the objects for which it is to be formed and will apply its profits (if any) or other income in promoting its objects and will prohibit the payment of any dividend to its members, the Minister</p>	<p>The prescribed time period for compliance with the Draft Regulations appears to be very short. Some Licensed Companies would require more time to comply with the Draft Regulations due to limited resources (monetary and human) already set up/in place for developmental projects that such Licensed Companies have undertaken and the suggested compliance period is likely to adversely affect such developmental projects Regulation 3(2) of the Draft Regulations, under section 506A of the Companies Ordinance, the Commission has the power to make regulations to carry out</p>

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		<p>the association in general meeting or by its directors, whether the same be registered, executed or passed, as the case may be, before or after coming into force of the said provisions and any provision contained in the memorandum, articles, agreement or resolution aforesaid shall, to the extent to which it is repugnant to the aforesaid provisions of these Regulations, become or be void, as the case may be.</p>		<p>particular case) by license direct that it be registered as a company with limited liability without the addition of the word "Berhad" to its name, and the company may be registered accordingly.</p>	<p>(2) Section 380(1) of the Companies Act 1985 (forwarding of copies of special resolutions to registrar of companies) must be complied with in relation to each of the special resolutions at the same time.                      (3) If the special resolutions include one under section 4 or 17 of the Companies Act 1985 (alterations of memorandum)—                      (a) copies of the special resolutions must not be forwarded to the registrar of companies before the relevant date, and                      (b) section 380(1) has effect in relation to them as if it referred to 15 days after the relevant date.</p>	<p>may (after requiring, if he thinks fit, the proposal to be advertised in such manner as he directs either generally or in a particular case) approve that it be registered as a company with limited liability without the addition of the word "Limited" or "Berhad" to its name, and the company may be registered accordingly.</p>	<p>the purposes of the Companies Ordinance. However, the Commission does not possess the power to give retrospective operation to the Draft Regulations, as no such power has been conferred on the Commission by the Companies Ordinance.</p>

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					(4) If an application is made under section 5 of the Companies Act 1985 (c. 6) (objection to alteration of memorandum under section 4 or 17), the relevant date is— (a) the date on which the court determines the application (or, if there is more than one application, the date on which the last to be determined by the court is determined), or (b) such later date as the court may order. (5) If there is no application under section 5 of that Act, the relevant date is the end of the period for making such an application.		

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					(6) The copies of the special resolutions forwarded to the registrar of companies must be accompanied by— (a) a copy of the memorandum and articles of the company as altered by the special resolutions, and (b) the prescribed conversion documents. (7) “The prescribed conversion documents” means such statutory declarations or other declarations or statements as are required by regulations to accompany the copies of the special resolutions, in such form as may be approved in accordance with the regulations.		

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2.	4 Application and procedure of grant of license	(1) An Association desirous of obtaining a license under section 42 of the Ordinance shall make an application to the Commission on Form-N1 and a printed copy of memorandum and articles of association as set out in Form-N2 along with all the documents supporting such application and receipt evidencing payment of non-refundable fee as set out in Schedule I through a person authorized by the Association in this behalf. (2) The Commission, while considering the application for the grant of license, may require the Association to furnish such further information or	Not Present	Not Present	36 New companies (1) If a company is to be formed as a community interest company, the documents delivered to the registrar of companies under section 10 of the Companies Act 1985 (memorandum, articles and statement of names and particulars of directors and secretary) must be accompanied by the prescribed formation documents. (2) "The prescribed formation documents" means such statutory declarations or other declarations or statements as are required by regulations to accompany the documents delivered under that section, in such form as	Not Present	(ii) Under Regulation 4(8)(d) of the Draft Regulations, an association already registered could be registered as a Section 42 Company. It is worth noting that if an entity such as a society under the Societies Registration Act, 1860 is already in existence, it cannot be transformed into a Section 42 Company as the provisions of Sections 284 to 287 of the Ordinance which provide for the reconstruction of 'companies' do not contemplate transformation /merger of a 'society' into a 'company'. Such reconstruction could only take place between limited liability companies.

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		clarification as it deem necessary. (3) An Association may apply for the promotion of single or multiple objects, provided in section 42 of the Ordinance (4) Where an Association applies for a license for the promotion of multiple objects, it shall have at least one promoter or director who possesses sufficient educational background, skill and expertise in the field of each proposed object and in case it applies for license for the promotion of single object, majority of the promoters or directors shall be so qualified. (5) Any subsequent change in the information provided to the Commission at the			may be approved in accordance with the regulations. (3) On receiving the documents delivered under that section and the prescribed formation documents the registrar of companies must (instead of registering the memorandum and articles)— (a) forward a copy of each of the documents to the Regulator, and (b) retain the documents pending the Regulator’s decision. (4) The Regulator must decide whether the company is eligible to be formed as a community interest company. (5) A company is eligible to be formed as a community interest company if—		

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		time of filing of application under sub-regulation (1) shall be intimated to the Commission immediately (6) The application for grant of license shall be made by a duly authorized person, who is, either:- (a) an advocate entitled to appear in High Court or Supreme Court in Pakistan; or (b) a member of the Institute of Chartered Accountants of Pakistan (ICAP) or the Institute of Cost and Management Accountants of Pakistan (ICMAP); or (c) a practicing Secretary who is member of a recognized institute of Secretaries in Pakistan; or			(a) the memorandum and articles comply with the requirements imposed by and by virtue of section 32 and the company's name complies with section 33, and (b) the Regulator, having regard to the documents delivered under section 10 of the Companies Act 1985 (c. 6), the prescribed formation documents and any other relevant considerations, considers that the company will satisfy the community interest test and is not an excluded company. (6) The Regulator must give notice of the decision to the registrar of companies (but the registrar is not		

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		<p>(d) a person who has served the Commission or the erstwhile Corporate Law Authority as officer in past and having at least ten years' relevant experience and was not removed from service consequent to disciplinary action; or</p> <p>(e) A person named as subscriber, director or officer in the articles of a proposed association or a responsible officer of an Association.</p> <p>(7) Where an existing company incorporated under the Ordinance applies for grant of license under sub-regulation (1), the application shall in addition to the documents required under sub-regulations (1) be accompanied by the following further</p>			<p>required to record it).</p> <p>(7) If the Regulator gives notice of a decision that the company is eligible to be formed as a community interest company, section 12 of the Companies Act 1985 (registration of memorandum and articles) applies; and if the registrar registers the memorandum and articles he must also retain and record the prescribed formation documents.</p> <p>(8) The certificate of incorporation under section 13 of the Companies Act 1985 (effect of registration) is to contain a statement that the company is a community interest company.</p>		

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		information and documents,- (a) a copy of the special resolution and minutes of the meeting at which the special resolution was adopted; (b) a copy of the revised memorandum and articles of association of the company; (c) statement of reasons for conversion of status of the existing company in to section 42 company; and (d) a copy of the latest financial statements; (8) Where an Association is already in existence and registered under any other law for the time being in force, the application for the grant of license under section 42 shall, in addition to the list of documents referred to			(9) The fact that the certificate of incorporation contains such a statement is conclusive evidence that the company is a community interest company. (10) If the Regulator decides that the company is not eligible to be formed as a community interest company, any subscriber to the memorandum may appeal to the Appeal Officer against the decision.		

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		in sub-regulation (1), be accompanied by the following further information and documents,- (a) a brief statement of charitable or other useful work undertaken, if any; (b) a copy of the audited balance-sheet, income and expenditure account and the annual report on the working of the association for the financial year immediately preceding the date of the application; (c) statement of reasons for conversion of status of the existing entity into the company; (d) attested copy of Certificate of Registration or any document of evidencing					

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		registration under any law; (e) list of members of board of directors/governing body of the existing entity; and (f) attested copy of Memorandum and Articles of Association, Charter, or Statute under which it was registered.					
3.	5. Grant Of License	(1) The Commission, while considering the application for granting a license made under sub-regulation (2) of regulation 4, may make such enquiry and obtain such other information as it may consider necessary. (2) The Commission may, on being satisfied that all conditions for the grant of a license as provided in regulation (7) have been fulfilled	(5) Where it is proved to the satisfaction of the Central Government that a limited company registered under this Act or under any previous company law has been formed with any of the objects specified in clause (a) of sub-section (1) and with the restrictions and prohibitions as mentioned respectively in clauses (b) and (c) of	(2) Where it is proved to the satisfaction of the Minister—  (a) that the objects of a limited company are restricted to those specified in subsection (1) and to objects incidental or conducive thereto; and  (b) that by its constitution the company is required to apply its profits, if any,	Not Present	(2) Where it is proved to the satisfaction of the Minister — (a) that the objects of a limited company are restricted to those specified in subsection (1) and to objects incidental or conducive thereto; (b) that the company has some basis of national or general public interest;	

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		<p>and that it shall be in the public interest so to do, may grant a license under section 42 in Form-N3 to the Association, subject to such conditions as it may deem fit to impose and may direct such Association to be registered as a company with the Commission in accordance of the provisions of the Ordinance.</p>	<p>that sub-section, it may, by licence, allow the company to be registered under this section subject to such conditions as the Central Government deems fit and to change its name by omitting the word "Limited", or as the case may be, the words "Private Limited" from its name and thereupon the Registrar shall, on application, in the prescribed form, register such company under this section and all the provisions of this section shall apply to that company.</p>	<p>or other income in promoting its objects and is prohibited from paying any dividend to its members, the Minister may by licence authorize the company to change its name to a name which does not contain the word "Berhad", being a name approved by the Registrar.</p> <p>(3) A licence under this section may be issued on such conditions as the Minister thinks fit, and those conditions shall be binding on the company and shall if the Minister so directs be inserted in the memorandum or articles of the company and the memorandum or articles may by special resolution be altered to give effect to</p>		<p>(c) that the company is in a financial position to carry out the objects for which it was formed; and</p> <p>(d) that by its constitution the company is required to apply its profits, if any, or other income in promoting its objects and is prohibited from paying any dividend to its members, the Minister may grant his approval to the company to change its name to a name which does not contain the word "Limited" or "Berhad", being a name approved by the Registrar.</p>	

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				any such direction.  (4) Where the memorandum or articles of a company include as a result of a direction of the Minister given pursuant to subsection  (3) or pursuant to any corresponding previous written law a provision that the memorandum or articles shall not be altered except with the consent of the Minister the company may with the consent of the Minister by special resolution alter any provision of the memorandum or articles.  (5) A company shall, while a licence granted by the Minister under this or under any			

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				corresponding previous written law is in force, be exempted from complying with this Act relating to the use of the word " <i>Berhad</i> " as any part of its name.			
4.	6 Incorporation of Association	(1) The Association which has been granted a license by the Commission under regulation (5) shall get itself incorporated as a company under provisions of the Ordinance within a period of six months of the date of issuance of such license: Provided that the Commission may, under special circumstance, on an application made by the Promoters, extend such time. Provided further that any such extension shall not be more than a cumulative period of	Not Present	Not Present	(1) This section has effect for the purposes of this Part. (2) A company satisfies the community interest test if a reasonable person might consider that its activities are being carried on for the benefit of the community. (3) An object stated in the memorandum of a company is a community interest object of the company if a reasonable person might consider that the carrying on of activities by the company in furtherance	Not Present	

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		twelve months. (2) The registrar shall, upon being satisfied that the application for incorporation has been filed within the time from the grant of the license, or within such time as extended by the Commission, incorporate the Association under provisions of the Ordinance (3) An Association having not for profit object(s) with enabling provisions to appeal, solicit or accept donations, shall be incorporated only after grant of license under section 42 of the Ordinance. (4) The license granted to an Association under section 42 shall stand cancelled if the association does not			of the object is for the benefit of the community. (4) Regulations may provide that activities of a description prescribed by the regulations are to be treated as being, or as not being, activities which a reasonable person might consider are activities carried on for the benefit of the community. (5) "Community" includes a section of the community (whether in Great Britain or anywhere else); and regulations may make provision about what does, does not or may constitute a section of the community.		

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		apply for its incorporation as a company under provisions of the Ordinance within the prescribed or extended time as provided under Regulation 5.			(6) A company is an excluded company if it is a company of a description prescribed by regulations.		
5.	7 Compliance applicable to section 42 companies	(1) In particular and without prejudice to the generality of the power of the Commission under section 42 of the Ordinance and Regulation 5, a license may be granted to Associations subject to following conditions, namely,- (a) The company shall be formed as a public company limited by guarantee and not having a share capital or, having regard to the circumstances of the case, in any other form;	Not Present	Not Present	Not Present	Not Present	Regulation 7(1) (n) provides that a license granted to section 42 companies under the Draft Regulations may be subject to, inter alia, the requirement that the company, on having multiple objects, shall keep separate books of account and record of all the donations with respect to each object and all such donations shall be applied solely for the promotion of that particular object and no other object, if any, of the company. It may be difficult to

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		(b) each subscriber shall undertake to donate a reasonable amount as start-up donation having regard to circumstances of the case, however, in case of any subscriber representing or nominated by some Ministry, Department or Statutory Body of the Federal or Provincial Government(s), the said requirement shall not apply to such subscriber(s); (c) payment of remuneration for services or otherwise to its members, or their family members whether holding an office in the company or not, shall be prohibited; (d) a subscriber or director who has resigned as member of					comply with this requirement. Many section 42 companies are provided funding on general basis, with the trust and expectation from donors that the funds donated will be applied towards the objects of the company and distribution of the same to different projects is left with the company. The instant requirement will entail significant changes and further investment to establish systems and personnel who can make and maintain such records. Under Regulations 7(g) and (q) of the Draft Regulations, a Section 42 Company cannot itself engage in industrial, commercial and trading activities. On the contrary, under

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		the company, whether holding an office in the company or not, shall not be eligible to receive remuneration for services or otherwise; (e) no change in the memorandum and articles of association shall be made except with the prior approval of the Commission (f) patronage of any government or authority, express or implied, shall not be claimed unless such government or authority has signified its consent thereto in writing (g) the company shall not itself set up or otherwise engage in industrial and commercial activities or in any manner function as a trade organization;					Section 42 of the Companies Ordinance 1984, a Section 42 Company could so validly as only then would it be able to make profits as contemplated in Section 42 of the Companies Ordinance 1984 to be ploughed back into the operations of the Section 42 Company.

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		(h) the company shall not exploit or offend the religious susceptibilities of the people (i) the subscribers to the memorandum and articles of association shall continue to be the members of the company unless allowed by the Commission on application to quit as members; (j) the company shall state with its name, the phrase "A company set up under section 42 of the Companies Ordinance, 1984", in all its letterheads, documents, signboards, and other modes of communication; (k) the income and any profits of the company, shall be applied solely towards the promotion					

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		of objects of the company and no portion thereof shall be distributed, paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to the members of the company or their family members; (l) the company shall not appeal, solicit, receive or accept donation from foreign sources except with the prior permission, clearance or approval from the relevant public authorities as may be required under any relevant statutory regulations and laws; (m) the company shall receive all funds through proper banking channels i.e., through crossed cheque, pay-order, bank draft etc.,					

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		and all accounts of the company shall be maintained in scheduled bank(s) in Pakistan; (n) the company, on having multiple objects, shall keep separate books of account and record of all the donations with respect to each object and all such donations shall be applied solely for the promotion of that particular object and no other object, if any, of the company; (o) the company shall close its accounts on 30th of June each year; (p) the company shall make no loan to or investment with, whatsoever, its connected persons; (q) the company shall not undertake any trading activities and					

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		shall conform to relevant statutory regulations and laws; (r) notwithstanding anything stated in any object clause, the company shall obtain such other licences, permissions, or approvals of the relevant public authorities as may be required under any relevant statutory regulations and laws for the time being in force, to carry out its specific object; (s) the company shall comply with any other condition(s) as may be imposed by the Commission.					
6.	8 Revocation of License	(1) If the company licensed and registered under Section 42 does	(6) The Central Government may, by order, revoke the	(6) A licence under this section or under any corresponding previous	Not Present	(6) Any approval granted under this section may at any time	

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		<p>not comply with any conditions applicable to it under Regulation 7 or is in violation of these Regulations or any other law, rules or regulations, the Commission may, after giving a notice in writing and an opportunity of being heard, revoke its licence.</p> <p>(2) If the Commission revokes the licence granted under section 42 it shall make the action public by notice in two newspapers of wide circulation in the country and send the revocation order to the company by registered post to its registered office and the residential address of the chief executive and directors which shall be deemed to have been</p>	<p>licence granted to a company registered under this section if the company contravenes any of the requirements of this section or any of the conditions subject to which a licence is issued or the affairs of the company are conducted fraudulently or in a manner violate of the objects of the company or prejudicial to public interest, and without prejudice to any other action against the company under this Act, direct the company to convert its status and change its name to add the word "Limited" or the words "Private Limited", as the case may be, to its name and thereupon the Registrar shall, without</p>	<p>written law may at any time be revoked by the Minister and upon revocation the Registrar shall enter the word "Berhad" at the end of the name of the company upon the register, and the company shall thereupon cease to enjoy the exemption granted by reason of the licence under this section but before a licence is so revoked the Minister shall give to the company notice in writing of his intention and shall afford it an opportunity to be heard.</p>		<p>be revoked by the Minister and, upon revocation, the Registrar shall enter the word "Limited" or "Berhad" at the end of the name of the company in the register, and the company shall thereupon cease to enjoy the exemption granted by reason of the approval under this section but before the approval is so revoked the Minister shall give to the company notice in writing of his intention and shall afford it an opportunity to be heard.</p>	

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		<p>delivered.</p> <p>(3) Upon revocation of the licence by the Commission granted under section 42, the registrar shall proceed under section 42(4) of the Ordinance and the company shall cease to enjoy the exemptions and privileges conferred upon it by virtue of registration under section 42 and it shall forthwith stop soliciting or receiving donation from persons or donors other than the members of the association.</p> <p>(4) The Commission, upon revocation of a licence, may issue such directives to the company under section 506B of the Ordinance as are considered necessary.</p>	<p>prejudice to any action that may be taken under sub-section (7), on application, in the prescribed form, register the company accordingly:                      Provided that no such order shall be made unless the company is given a reasonable opportunity of being heard:                      Provided further that a copy of every such order shall be given to the Registrar.</p> <p>(7) Where a licence is revoked under sub-section (6), the Central Government may, by order, if it is satisfied that it is essential in the public interest, direct that the company be wound up under this Act or amalgamated with another company</p>				

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			registered under this section: Provided that no such order shall be made unless the company is given a reasonable opportunity of being heard.				
7.	9. Composition of the Board	(1) The Board shall have a balance of executive and non-executive directors, including independent directors and those representing donors and other stakeholders interests with the requisite skills, competence, knowledge and experience so that the board as a group includes core competencies and diversity considered relevant in the context of the association's operations. (2) For the purposes of above sub-regulation	(1) Every company shall have a Board of Directors consisting of individuals as directors and shall have— (a) a minimum number of three directors in the case of a public company, two directors in the case of a private company, and one director in the case of a One Person Company; and (b) a maximum of fifteen directors: Provided that a company may appoint more than fifteen directors after passing a	Not Present	Not Present	Not Present	Licensed Companies do not have executive directors as payment of remuneration for services or otherwise to its members, whether holding an office in the company or not, is prohibited under most of their licenses in accordance with Rule 6(4) of the Companies Rules, which as submitted above is ultra vires section 42 of the Companies Ordinance The proposed regulation 9 of the Draft Regulations restricts the ability of

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		<p>(1), associations shall comply with the following requirements:</p> <p>(a) The board shall state in the annual report the names of the non-executive, executive, independent and other directors;                      Explanation.- For the purpose of this clause, the expression "independent director" means a director who is not connected with the association or its subscribers, directors including chief executive on the basis of family relationship or employment and who does not have any other relationship, whether pecuniary or otherwise, with the association, its directors, executives or connected persons and</p>	<p>special resolution:                      Provided further that such class or classes of companies as may be prescribed, shall have at least one woman director.</p> <p>(2) Every company existing on or before the date of commencement of this Act shall within one year from such commencement comply with the requirements of the provisions of sub-section (1).</p> <p>(3) Every company shall have at least one director who has stayed in India for a total period of not less than one hundred and eighty-two days in the previous calendar year.</p> <p>(4) Every listed public company shall have at least one-third of the</p>				<p>Licensed Companies to determine the procedure for appointment and the composition of the board as provided in their articles and nullifies the rights that have been conferred upon them by section 178(6) of the Companies Ordinance, and, as such, is in contradiction with the provisions of the Companies Ordinance. Regulation 9 (1) provides that the Board of the section 42 company shall also comprise "<i>those representing donors</i>", amongst others. Since in most large organizations there will be substantial numbers of donors, it seems to</p>

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		the person can be reasonably perceived as being able to exercise independent judgment without being subservient to any form of conflict of interest. Provided that without prejudice to the generality of this explanation no director shall be considered independent if one or more of the following circumstances exist: (i) If he has received remuneration from the association or any of its directors including chief executive or businesses managed or controlled by them within the last three years preceding his appointment as director, (ii) He has been an employee of the association or any of its subsidiaries within the	total number of directors as independent directors and the Central Government may prescribe the minimum number of independent directors in case of any class or classes of public companies.				be practically impracticable to be able to comply with the said requirement.  (b) The requirement of having executive directors on the Board of a section 42 company as per Regulation 9 (1) appears to be in conflict with Regulation 7 (1) (c), which prohibits payment of remuneration for services or otherwise to its members, amongst others.

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		last three years; and (iii) He has, or has had within the last three years, a material business relationship with the association either directly, or indirectly as a partner, major shareholder or director of a body that has such a relationship with the association; (iv) He has served on the board for more than three consecutive terms from the date of his first appointment provided that such person shall be deemed independent director after a lapse of one term. (b) executive directors, i.e., paid executives of the association from among senior management and directors representing donors and other					

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		stakeholders, shall not be more than one third of the elected directors including the chief executive: Provided that nothing contained in this clause shall supersede any law for the time being in force or regulations made by any regulator regarding the composition of the board.					
8.	10. Filling up a Casual Vacancy	Any casual vacancy on the Board shall be filled up by the directors at the earliest but not later than ninety days thereof.	Not Present	Not Present	Not Present	Not Present	Neither the Companies Ordinance nor articles of association of Licensed Companies prescribe any timeline for filling casual vacancies on the board. Licensed Companies may require more time to identify and invite appropriate persons as these are voluntary positions without remuneration being provided to directors.

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9.	11. Responsibilities , powers and functions of the board	(1) The Board shall exercise its powers and carry out its fiduciary duties with a sense of objective judgment and independence in the best interests of the association. (2) The Board shall ensure that: (i) the conditions applicable on the association for grant of licence under section 42 of the Ordinance are being complied with in letter and spirit; (ii) professional standards and corporate values are put in place that promote integrity for the board, senior management and other employees in the form of a code of conduct, defining therein acceptable and unacceptable	(1) The Board of Directors of a company shall be entitled to exercise all such powers, and to do all such acts and things, as the company is authorised to exercise and do: Provided that in exercising such power or doing such act or thing, the Board shall be subject to the provisions contained in that behalf in this Act, or in the memorandum or articles, or in any regulations not inconsistent therewith and duly made thereunder, including regulations made by the company in general meeting: Provided further that the Board shall not	(1) The business and affairs of a company must be managed by, or under the direction of, the board of directors.  (2) The board of directors has all the powers necessary for managing and for directing and supervising the management of the business and affairs of the company subject to any modification, exception or limitation contained in this Act or in the memorandum or articles of association of the company.	Not Present	Not Present	It appears that the proposed Regulation would lead to an increase in the workload for Licenced Companies. This would result in additional administrative costs thereby impeding the implementation of developmental projects and programmes of Licenced Companies. The requirements of Regulation 11(3) are in contradiction with various local and international laws that allow companies to have their CEO and Chairman as the same individual. Moreover, a number of listed companies also have the same person as the CEO and Chairman. Furthermore, where restrictions have been placed on payments of

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		behaviours. The board shall take appropriate steps to disseminate code of conduct throughout the association along with supporting policies and procedures and these may be put on the association’s website; (iii) adequate systems and controls are in place for identification and redress of grievances arising from unethical practices. (iv) a vision and/or mission statement and overall corporate strategy for the association is prepared and adopted. It shall further ensure that significant policies have been formulated; Explanation.- The significant policies for this purpose may include:	exercise any power or do any act or thing which is directed or required, whether under this Act or by the memorandum or articles of the company or otherwise, to be exercised or done by the company in general meeting. (2) No regulation made by the company in general meeting shall invalidate any prior act of the Board which would have been valid if that regulation had not been made. (3) The Board of Directors of a company shall exercise the following powers on behalf of the company by means of resolutions passed at meetings of the Board, namely:—				remuneration to CEO, in those cases generally the volunteer board member who is the Chairman is also appointed as the CEO.

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		(a) governance, risk management and compliance issues; (b) human resource management including preparation of a succession plan; (c) procurement of goods and services; (d) write-off of bad/doubtful debts, advances and receivables; (e) capital expenditure, planning and control; (f) investments and disinvestment of funds; (g) borrowing of moneys; (h) determination and delegation of financial powers; (i) transactions or contracts with connected persons; (j) health, safety and environment; and (k) the whistleblower policy.	(a) to make calls on shareholders in respect of money unpaid on their shares; (b) to authorize buy-back of securities under section 68; (c) to issue securities, including debentures, whether in or outside India; (d) to borrow monies; (e) to invest the funds of the company; (f) to grant loans or give guarantee or provide security in respect of loans; (g) to approve financial statement and the Board's report; (h) to diversify the business of the company; (i) to approve amalgamation, merger or reconstruction; (j) to take over a company or acquire a				

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		<p>A complete record of particulars of the significant policies along with the dates on which they were approved or amended by the Board shall be maintained.</p> <p>(v) a system of sound internal control is established, which is effectively implemented and maintained at all levels within the association;</p> <p>(vi) within two years of coming into force of these Regulations, a mechanism is put in place for an annual evaluation of the board's own performance;</p> <p>(vii) the decisions on the following material transactions or significant matters are documented by a</p>	<p>controlling or substantial stake in another company;</p> <p>(k) any other matter which may be prescribed:</p> <p>Provided that the Board may, by a resolution passed at a meeting, delegate to any committee of directors, the managing director, the manager or any other principal officer of the company or in the case of a branch office of the company, the principal officer of the branch office, the powers specified in clauses (d) to (f) on such conditions as it may specify:</p> <p>Provided further that the acceptance by a banking company in the ordinary course of</p>				

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		<p>resolution passed at a meeting of the board:</p> <p>(a) investment and disinvestment of funds where the maturity period of such investments is six months or more;</p> <p>(b) determination of the nature of loans and advances made by the association and fixing a monetary limit thereof.</p> <p>(viii) the Board shall define the level of materiality, keeping in view the specific circumstances of the association and the recommendations of any technical or executive subcommittee of the board that may be set up for the purpose</p> <p>(3) The chairman and the chief executive officer (CEO), by</p>	<p>its business of deposits of money from the public repayable on demand or otherwise and withdrawable by cheque, draft, order or otherwise, or the placing of monies on deposit by a banking company with another banking company on such conditions as the Board may prescribe, shall not be deemed to be a borrowing of monies or, as the case may be, a making of loans by a banking company within the meaning of this section.</p> <p><i>Explanation 1.</i>—Nothing in clause (d) shall apply to borrowings by a banking company from other banking companies or from the</p>				

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		whatever name called, shall not be the same person except where provided for under any other law. The chairman shall be elected from among the non-executive directors of the association. The chairman shall be responsible for leadership of the board and shall ensure that the board plays an effective role in fulfilling all its responsibilities. The Board shall clearly define the respective roles and responsibilities of the chairman and chief executive. Provided that a Small-Sized Association shall not be required to split the positions of the chairman and the chief executive officer.	Reserve Bank of India, the State Bank of India or any other banks established by or under any Act. <i>Explanation II.</i> —In respect of dealings between a company and its bankers, the exercise by the company of the power specified in clause (d) shall mean the arrangement made by the company with its bankers for the borrowing of money by way of overdraft or cash credit or otherwise and not the actual day-to-day operation on overdraft, cash credit or other accounts by means of which the arrangement so made is actually availed of.				

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		Explanation.- "Small-Sized Association" in this chapter means an association having net assets not exceeding ten million rupees or gross annual donation not exceeding fifty million rupees as per annual audited accounts of any of the preceding last five years.	(4) Nothing in this section shall be deemed to affect the right of the company in general meeting to impose restrictions and conditions on the exercise by the Board of any of the powers specified in this section.				
10.	12 Meetings of the Board	(1) All written notices, including the agenda, of meetings shall be circulated at least seven days prior to the meetings, except in the case of emergency meetings, where the notice period may be reduced or waived. (2) The chairman shall ensure that the minutes of meetings of the Board are appropriately recorded. The company secretary shall be the	(1) Every company shall hold the first meeting of the Board of Directors within thirty days of the date of its incorporation and thereafter hold a minimum number of four meetings of its Board of Directors every year in such a manner that not more than one hundred and twenty days shall intervene between two	(1) Every public company that is a limited company and has a share capital shall, within a period of not less than one month and not more than three months after the date at which it is entitled to commence business, hold a general meeting of the members of the company to be called the "statutory meeting".	Not Present	Not Present	

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		secretary to the board (3) In the event that a director of an association is of the view that his dissenting note has not been satisfactorily recorded in the minutes of a meeting of the Board, he may refer the matter to the company secretary. The director may require the note to be appended to the minutes, failing which he may file an objection to that effect with the Commission within thirty days of the date of confirmation of the minutes of the meeting. (4) A Board meeting held and attended through tele /video conferencing shall be a valid meeting, so far as its proceedings are properly recorded and the requirements	consecutive meetings of the Board: Provided that the Central Government may, by notification, direct that the provisions of this sub-section shall not apply in relation to any class or description of companies or shall apply subject to such exceptions, modifications or conditions as may be specified in the notification. (2) The participation of directors in a meeting of the Board may be either in person or through video conferencing or other audio visual means, as may be prescribed, which are capable of recording and recognising the participation of the	(2) The directors shall at least seven days before the day on which the meeting is to be held forward a report to be called the "statutory report" to every member of the company.  (3) The statutory report shall be certified by not less than two directors of the company and shall state—  (a) the total number of shares allotted distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the			

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		specified by the Commission for public companies for holding Board meetings through tele/video conferencing are met.	directors and of recording and storing the proceedings of such meetings along with date and time: Provided that the Central Government may, by notification, specify such matters which shall not be dealt with in a meeting through video conferencing or other audio visual means. (3) A meeting of the Board shall be called by giving not less than seven days' notice in writing to every director at his address registered with the company and such notice shall be sent by hand delivery or by post or by electronic means: Provided that a meeting of the Board may be	consideration for which they have been allotted; (b) the total amount of cash received by the company in respect of all the shares allotted and so distinguished; (c) an abstract of the receipts of the company and of the payments made thereout up to a date within seven days of the date of the report exhibiting under distinctive headings the receipts from shares and debentures and other sources the payments made thereof and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses;			

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			<p>called at shorter notice to transact urgent business subject to the condition that at least one independent director, if any, shall be present at the meeting: Provided further that in case of absence of independent directors from such a meeting of the Board, decisions taken at such a meeting shall be circulated to all the directors and shall be final only on ratification thereof by at least one independent director, if any.</p> <p>(4) Every officer of the company whose duty is to give notice under this section and who fails to do so shall be liable to a penalty of twenty-five thousand rupees.</p> <p>(5) A One Person</p>	<p>(d) the names and addresses and descriptions of the directors, trustees for holders of debentures, if any, auditors, if any, managers, if any, and secretaries of the company; and</p> <p>(e) the particulars of any contract, the modification of which is to be submitted to the meeting for its approval together with the particulars of the modification or proposed modification</p> <p>(4) The statutory report shall, so far as it relates to the shares allotted and to the cash received in respect of those shares and to the receipts and payments on capital account, be</p>			

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			Company, small company and dormant company shall be deemed to have complied with the provisions of this section if at least one meeting of the Board of Directors has been conducted in each half of a calendar year and the gap between the two meetings is not less than ninety days: Provided that nothing contained in this subsection and in section 174 shall apply to One Person Company in which there is only one director on its Board of Directors	examined and reported upon by the auditors, if any.  (5) The directors shall cause a copy of the statutory report and the auditor's report, if any, to be lodged with the Registrar at least seven days before the date of the statutory meeting.  (6) The directors shall cause a list showing the names and addresses of the members and the number of shares held by them respectively to be produced at the commencement of the meeting and to remain open and accessible to any member during the continuance of the meeting.			

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				<p>(7) The members present at the meeting shall be at liberty to discuss any matter relating to the formation of the company or arising out of the statutory report, whether previous notice has been given or not, but no resolution of which notice has not been given in accordance with the articles may be passed.</p> <p>(8) The meeting may adjourn from time to time and at any adjourned meeting any resolution of which notice has been given in accordance with the articles either before or subsequently to the former meeting may be passed and the adjourned meeting</p>			

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				<p>shall have the same powers as an original meeting.</p> <p>(9) The meeting may by ordinary resolution appoint a committee of inquiry, and at any adjourned meeting a special resolution may be passed that the company be wound up if notwithstanding any other provision of this Act at least seven days notice of intention to propose the resolution has been given to every member of the company.</p> <p>(10) In the event of any default in complying with this section every officer of the company who is in default and every director of the company who fails to take all reasonable</p>			

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				steps to secure compliance with this section shall be guilty of an offence against this Act.  Penalty: Five thousand ringgit: Default penalty: One hundred ringgit			
11.	13 Significant issues to be placed for decision of board	(1) In order to strengthen and formalize corporate decision-making process, significant issues shall be placed for the information, consideration and decision of the Board and/or its committees, including, inter-alia, the following: (a) the chief executive shall immediately bring before the board, as soon as it is foreseen that the association will not be in a position of meeting its obligations	Not Present	Not Present	Not Present	Not Present	

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		on any loans (including penalties on late payments and other dues, to a creditor, bank or financial institution or default in payment of public deposit), TFCs, Sukuks or any other debt instrument. Full details of the association's failure to meet obligations shall be provided in the association's annual financial statements; (b) annual operations plan, cash flow projections, forecasts and strategic plan; (c) budgets including capital, manpower and overhead budgets, along with variance analyses; (d) analysis of utilization of the funds received from the donors for specific					

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		purposes in accordance with the terms of agreement entered into with them; (e) matters recommended and/or reported by the committees of the board; (f) internal audit reports, including cases of fraud, bribery, corruption, or irregularities of a material nature; (g) management letter issued by the external auditors; (h) details of joint venture or collaboration agreements or agreements with donors, donees, partners in projects, stakeholders, etc.; (i) promulgation or amendment to a law, rule, regulation or					

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		condition of licence, enforcement of an accounting standard or guideline and such other matters as may affect the association; (j) status and implications of any law suit or proceedings of material nature, filed by or against the association; (k) any show cause, demand or prosecution notice received from revenue or regulatory authorities; (l) failure to recover material amounts of loans, advances, and deposits made by the association; (m) any significant accidents, dangerous occurrences and instances having impact on the projects undertaken by the association;					

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		(n) significant public liability claims made or likely to be made against the association, including any adverse judgment or order made on the conduct of the association or of another company that may bear negatively on the association; (o) report on governance, risk management and compliance issues. Risks considered shall include reputational risk and shall address risk analysis, risk management and risk communication; and (p) whistle-blower protection mechanism.					
12.	14 Related party transactions	(1) The details of all related party and connected person transactions shall be placed before the Audit	Not Present	Not Present	Not Present	Not Present	

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		<p>Committee of the association and upon recommendations of the Audit Committee the same shall be placed before the board for review and approval.</p> <p>(2) The related party and connected person transactions which are not executed at arm's length price shall also be placed separately at each board meeting along with necessary justification for consideration and approval of the board on recommendation of the Audit Committee of the association.</p> <p>(3) The Board shall approve the pricing methods for related party and connected person transactions that were made on the terms equivalent to</p>					

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		those that prevail in arm's length transaction, only if such terms can be substantiated. (4) Every association shall maintain a party wise record of transactions, in each financial year, entered into with related parties and connected persons in that year along with all relevant documents and explanations. The record of related party and connected person transactions shall include the following particulars in respect of each transaction: (i) Name of related party or connected person; (ii) Nature of relationship with related party or connected person; (iii) Nature of					

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		transaction; (iv) Amount of transaction; and (v) Terms and conditions of transaction, including the amount of consideration received or given.					
13.	15 Directors' orientation Course	All associations may make appropriate arrangements to carry out orientation courses for their directors to acquaint them with these Regulations, applicable laws, their duties and responsibilities to enable them to effectively manage the affairs of the association.	Not Present	Not Present	Not Present	Not Present	
14.	16 Chief Financial Officer, Company Secretary and	(1) Every association shall appoint a chief financial officer, a whole-time company secretary and chief	Not Present	Not Present	Not Present	(1) Every company shall have one or more secretaries each of whom shall be a natural person who has his	This Section provides that it is mandatory for a Section 42 Company to have a 'Company Secretary'. On the

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	Chief Internal Auditor- Appointment and removal	internal auditor. Provided that a Small-Sized Association may not be required to appoint a whole time company secretary and the CFO can be entrusted with the same position. (2) The appointment, remuneration and terms and conditions of employment of the chief financial officer, the company secretary and the chief internal auditor of Public Sector Companies shall be determined with the approval of the Board. (3) The chief financial officer and the company secretary shall not be removed except with the approval of the Board. (4) The removal of chief internal auditor shall be made with the approval				principal or only place of residence in Singapore. (1A) It shall be the duty of the directors of a company to take all reasonable steps to secure that each secretary of the company is a person who appears to them to have the requisite knowledge and experience to discharge the functions of secretary of the company. (1AA) In addition, it shall be the duty of the directors of a public company to take all reasonable steps to secure that each secretary of the company is a person who — (a) on 15th May 1987 held the office of secretary	contrary, under Section 204A of the Companies Ordinance 1984 only listed companies and 'single member companies' are mandatorily required to have a Company Secretary. The Draft Regulations cannot over-ride the provisions of the Companies Ordinance 1984.

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		of the board only upon recommendation of the chairman of the Audit Committee: Explanation: For this purpose the term removal shall include non-renewal of contracts of service of the CFO, Company Secretary and chief internal auditor.				in that company and continued to hold that office on 15th May 2003; (b) for at least 3 years in the period of 5 years immediately preceding his appointment as secretary, held the office of secretary of a company; (c) is a qualified person under the Legal Profession Act (Cap. 161), a public accountant, a member of the Singapore Association of the Institute of Chartered Secretaries and Administrators, or a member of such other professional association as may be prescribed; or (d) is, by virtue of such	

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						academic or professional qualifications as may be prescribed, capable of discharging the functions of secretary of the company. (1AB) The Registrar may require a private company to appoint a person who satisfies subsection (1AA)(b), (c) or (d) as its secretary if he is satisfied that the company has failed to comply with any provision of this Act with respect to the keeping of any register or other record. (1B) Any person who is appointed by the directors of a company as a secretary shall, at the time of his appointment, by himself or through a prescribed person authorized by him, file	

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						with the Registrar a declaration in the prescribed form that he consents to act as secretary and providing the prescribed particulars. (1C) A person to whom subsection (1AA)(a) applies who, after 15th May 1987, becomes a secretary of another company and is not qualified to act as secretary under subsection (1AA)(b), (c) and (d) shall not be regarded as being a person who is qualified to discharge the functions of secretary under this subsection. (1D) In this subsection and section 173, "secretary" includes an assistant or deputy secretary. (1E) Where a	

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						director is the sole director of a company, he shall not act or be appointed as the secretary of the company. (2) Subsection (1) shall not operate to prevent a corporation which was acting as the secretary of a company immediately before 29th December 1967 from continuing to act as secretary of that company for a period of 12 months after that date. (3) The secretary or secretaries shall be appointed by the directors and at least one of those secretaries shall be present at the registered office of the company by himself or his agent or clerk on the days and at the hours during which the	

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						<p>registered office is to be accessible to the public.</p> <p>(4) Anything required or authorised to be done by or in relation to the secretary may, if the office is vacant or for any other reason the secretary is not capable of acting, be done by or in relation to any assistant or deputy secretary or, if there is no assistant or deputy secretary capable of acting, by or in relation to any officer of the company authorised generally or specially in that behalf by the directors:</p> <p>Provided that the office of secretary shall not be left vacant for more than 6 months at any one time.</p> <p>(5) A provision</p>	

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						requiring or authorising a thing to be done by or in relation to a director and the secretary shall not be satisfied by its being done by or in relation to the same person acting both as director and as, or in place of, the secretary.	
15.	17 Qualifications of CFO, company Secretary and Head of Internal Audit	(1) No person shall be appointed as a CFO of an association unless he has at least three years of experience of handling financial affairs of a company, an association, a bank or a financial institution and is: (a) a member of a recognized body of professional accountants; or (b) has a postgraduate degree in finance from a recognized university or equivalent.	Not Present	Not Present	Not Present	Not Present	This will place a severe burden on Licensed Companies. Due to the voluntary nature of Licensed Companies, many times one of the Directors of the Licensed Company assumes the office of Company Secretary.

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		<p>Provided that individuals serving as CFO of an association for the last three years at the time of coming into effect of these Regulations shall be exempted from the above qualification requirement.</p> <p>(2) No person shall be appointed as the company secretary of an association unless he meets the qualification criteria prescribed under rule 14B of the Companies (General Provisions &amp; Forms) Rules, 1985.</p> <p>(3) No person shall be appointed as the chief internal auditor of an association unless he/she has three years of relevant audit experience and is:</p> <p>(a) a member of a recognized body of</p>					

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		professional accountants; or (b) a Certified Internal Auditor; or (c) a Certified Fraud Examiner; or (d) a Certified Internal Control Auditor Provided that individuals serving as chief internal auditor of an association for the last three years at the time of coming into effect of these Regulations shall be exempted from the above qualification requirement. Provided further that a person holding a graduate degree in the relevant field with a minimum of five years of relevant experience shall be eligible to hold the aforesaid positions in a Small-Sized Association.					

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16.	18 Corporate financial reporting framework	<p>(1) Without prejudice to the requirements of filing of documents with the registrar under the Ordinance, the association shall, within thirty days of the date of its annual general meeting or where no such meeting is held or if held is not concluded, within four months of the close of its annual accounts, file with the registrar concerned and also furnish to the Commission:</p> <p>(a) a copy of annual audited accounts, and</p> <p>(b) the Directors' Report of the association, prepared under section 236 of the Ordinance, which shall include statements to the following effect:</p> <p>(i) The financial statements, prepared</p>	<p>(1) Every company shall prepare a return (hereinafter referred to as the annual return) in the prescribed form containing the particulars as they stood on the close of the financial year regarding—</p> <p>(a) its registered office, principal business activities, particulars of its holding, subsidiary and associate companies;</p> <p>(b) its shares, debentures and other securities and shareholding pattern;</p> <p>(c) its indebtedness;</p> <p>(d) its members and debenture-holders along with changes therein since the close of the previous financial year;</p>	<p>(1) Every company having a share capital shall make a return containing the particulars referred to in Part I of the Eighth Schedule and accompanied by such copies of documents as are required to be included in the return in accordance with Part II of that Schedule and such of the certificates and other particulars prescribed in that Part as are applicable to the company.</p> <p>(2) The return shall be in accordance with the form set out in Part II of the Eighth Schedule or as near thereto as circumstances admit and shall be made up to the date of the annual general meeting of the company in the year or</p>	<p>(1) The directors of a community interest company must prepare in respect of each financial year a report about the company's activities during the financial year (a "community interest company report").</p> <p>(2) Section 242(1) of the Companies Act 1985 is to be treated as requiring the directors of a community interest company to deliver to the registrar of companies a copy of the community interest company report.</p> <p>(3) Regulations—</p> <p>(a) must make provision requiring community interest company reports to include information about the remuneration of</p>	<p>(1) Every company and the directors and managers thereof shall cause to be kept such accounting and other records as will sufficiently explain the transactions and financial position of the company and enable true and fair profit and loss accounts and balance-sheets and any documents required to be attached thereto to be prepared from time to time, and shall cause those records to be kept in such manner as to enable them to be conveniently and properly audited.</p> <p>[40/89]</p> <p>(2) The company shall retain the records referred to in subsection (1) for a period of not less than 5 years from the end of</p>	<p>This Regulation imposes additional requirements on Licensed Companies and would increase their workload. proposed Regulation 18(2)(a) restricts Licenced Companies from collecting anonymous donations (such as through drop-boxes, etc.) and increases cost of collection as staff would have to be stationed at all places where donations are to be collected in order to note the full particulars of the donor. Also, Regulation 18(2)(a) appears to be contrary to the concept of drop boxes.</p> <p>may not be practical where for example funds are spent on assisting committees</p>

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		by the management of the company, present its state of affairs fairly, the result of its operations and its cash flows; (ii) Proper books of account of the company have been maintained; (iii) Appropriate accounting policies have been consistently applied in preparation of financial statements and accounting estimates are based on reasonable and prudent judgment; (iv) International Financial Reporting Standards, as applicable in Pakistan, have been followed in preparation of financial statements and any departures therefrom have been adequately disclosed and explained;	(e) its promoters, directors, key managerial personnel along with changes therein since the close of the previous financial year; (f) meetings of members or a class thereof, Board and its various committees along with attendance details; (g) remuneration of directors and key managerial personnel; (h) penalty or punishment imposed on the company, its directors or officers and details of compounding of offences and appeals made against such penalty or punishment; (i) matters relating to certification of compliances, disclosures as may be	a date not later than the fourteenth day after the date of the annual general meeting. (3) In the case of a company keeping a branch register the entries in that register shall, so far as they relate to matters which are required to be stated in the return, be included in the return made next after copies of those entries are received at the registered office of the company. (4) The annual return signed by a director or by the manager or secretary of the company shall be lodged with the Registrar within one	directors, (b) may make provision as to the form of, and other information to be included in, community interest company reports, and (c) may apply provisions of the Companies Act 1985 (c. 6) relating to directors' reports to community interest company reports (with any appropriate modifications). (4) The registrar of companies must forward to the Regulator a copy of each community interest company report delivered to the registrar by virtue of this section.	the financial year in which the transactions or operations to which those records relate are completed. <a href="#">[2/2007 wef 01/03/2007]</a> (2A) Every public company and every subsidiary of a public company shall devise and maintain a system of internal accounting controls sufficient to provide a reasonable assurance that — (a) assets are safeguarded against loss from unauthorised use or disposition; and (b) transactions are properly authorised and that they are recorded as necessary to permit the preparation of true and fair profit and loss accounts and balance-	develop facilities or organise themselves There may be several thousand beneficiaries With regard to the proposed Regulation 18(2)(d), it would be onerous for Licenced Companies to keep track of all revenues received and expenditures incurred for each object related project, as day-to-day expenditure does not fall under any specific object of the Licenced Companies.

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		<p>(v) The system of internal control is sound in design and has been effectively implemented and monitored; and</p> <p>(vi) There are no significant doubts upon the company's ability to continue as a going concern:            Provided that where necessary, the following information shall also be annexed to the Directors' Reports of the associations:            (a) If the association is not considered to be a going concern, the fact along with the reasons shall be disclosed;            (b) Significant deviations from last year in operating results of the association shall be highlighted and reasons thereof shall be</p>	<p>prescribed;            (j) details, as may be prescribed, in respect of shares held by or on behalf of the Foreign Institutional Investors indicating their names, addresses, countries of incorporation, registration and percentage of shareholding held by them; and            (k) such other matters as may be prescribed, and signed by a director and the company secretary, or where there is no company secretary, by a company secretary in practice:            Provided that in relation to One Person Company and small company, the annual return shall be signed by the company</p>	<p>month or in the case of a company keeping pursuant to its articles a branch register in any place outside Malaysia within two months after the annual general meeting.</p> <p>Annual return by company not having a share capital</p> <p>(5) A company not having a share capital shall, within one month after each annual general meeting of the company, lodge with the Registrar a return in the prescribed form containing the particulars referred to in subsection (6) and made up to the date of the annual general meeting or a date not later than the fourteenth day after</p>		<p>sheets and to maintain accountability of assets.  <a href="#">[40/89]</a>            (3) The records referred to in subsection (1) shall be kept at the registered office of the company or at such other place as the directors think fit and shall at all times be open to inspection by the directors.            (4) If accounting and other records are kept by the company at a place outside Singapore there shall be sent to and kept at a place in Singapore and be at all times open to inspection by the directors such statements and returns with respect to the business dealt with in the records so kept as will enable to be prepared true and fair</p>	

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		explained; (c) Key operating and financial data of last six years shall be summarized; (d) Where any statutory payment on account of taxes, duties, levies and charges is outstanding, the amount together with a brief description and reasons for the same shall be disclosed; (e) Significant plans and decisions, such as expansion or discontinuance of operations, shall be outlined along with future prospects, risks and uncertainties surrounding the association; (f) A statement as to the value of investments of provident, gratuity and pension funds, based on their respective	secretary, or where there is no company secretary, by the director of the company. (2) The annual return, filed by a listed company or, by a company having such paid-up capital and turnover as may be prescribed, shall be certified by a company secretary in practice in the prescribed form, stating that the annual return discloses the facts correctly and adequately and that the company has complied with all the provisions of this Act. (3) An extract of the annual return in such form as may be prescribed shall form part of the Board's report.	the date of the annual general meeting. (6) The return of a company not having a share capital shall contain— (a) the address of the registered office of the company; (b) in a case in which the register of members is, under this Act, kept elsewhere than at that office, the address of the place where it is kept; (c) particulars of the total amount of the indebtedness of the company in respect of all charges, whether required be registered with the Registrar or not; (d) all such particulars		profit and loss accounts and balance-sheets and any documents required to be attached thereto. (5) The Court may in any particular case order that the accounting and other records of a company be open to inspection by a public accountant acting for a director, but only upon an undertaking in writing given to the Court that information acquired by the public accountant during his inspection shall not be disclosed by him except to that director. <a href="#">[5/2004]</a> (6) If default is made in complying with this section, the company and every officer of the company who is in default shall	

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		audited accounts, shall be included; Provided that a Small-Sized Association shall not be required to annex such a statement with the directors' report to the members. (g) The number of board and committees' meetings held during the year and attendance by each director shall be disclosed; and (h) All business transactions with the association, carried out by its director, executive and their spouse and minor child shall also be disclosed. Explanation: For the purpose of this sub-clause, the expression "executive" means the CEO, CFO, chief internal auditor and company secretary by whatever	(4) Every company shall file with the Registrar a copy of the annual return, within sixty days from the date on which the annual general meeting is held or where no annual general meeting is held in any year within sixty days from the date on which the annual general meeting should have been held together with the statement specifying the reasons for not holding the annual general meeting, with such fees or additional fees as may be prescribed, within the time as specified, under section 403. (5) If a company fails to file its annual return under sub-section (4),	with respect to the persons who, on the day to which the return is made up, are the directors, managers or secretaries of the company as are required to be contained in the register of directors, managers and secretaries; (e) the name and address of the auditor of the company; and (f) such other matters relating to the accounts of the company and to the unclaimed moneys held by the company as are prescribed. (7) If a company fails to comply with this section, the company and every officer of the company who is in		be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 3 months and also to a default penalty	

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		name called, and other employees of the association for whom the Board will set the threshold to be reviewed on an annual basis and disclosed in the annual report. (2) The association shall separately maintain the following accounting registers in addition to the books of account as required under the Ordinance (a) register of donors of the funds received in cash or in kind with their complete names, addresses, the amounts received from them, mode of receipt with instrument of receipt's full particulars and the purpose of donation (b) register of donees and beneficiaries of the funds disbursed in cash or in kind with their	before the expiry of the period specified under section 403 with additional fee, the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakhs rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both. (6) If a company secretary in practice certifies the annual return otherwise than in conformity with the	default shall be guilty of an offence against this Act.  Penalty: Two thousand ringgit. Default penalty.			

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		complete names, addresses, the amounts received by them and the purpose of disbursement; (c) register of connected persons of the association who have received any disbursement in cash or in kind from the association or made any transaction or contract with the association; and (d) register of object related projects showing all revenues received and generated for a particular object and expenditures incurred for each of such object; (3) The association shall furnish to the Commission as well as the registrar concerned a certified copy of the association's certificate	requirements of this section or the rules made thereunder, he shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees				

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		from the NPO Certification Agency notified by the Federal Government for the purpose. (4) The association shall also annexed to the directors' report information regarding sources of donations received and their application as per specimen set out in Form-N4.					
17.	19 Responsibility for financial reporting	(1) No association shall circulate its financial statements unless the CEO and the CFO present the financial statements, duly endorsed under their respective signatures, for consideration and approval of the Board. (2) It shall be mandatory for the CEO and CFO to have the annual accounts initialled by the	Not Present	Not Present	Not Present	Not Present	

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		external auditors before presenting it to the audit committee and the Board for approval.					
18.	20 Secretarial Compliance Certificate	The company secretary of an association shall furnish a Secretarial Compliance Certificate in the format set out in Form-N5, along with annual return filed with the registrar concerned certifying that the secretarial and corporate requirements of the Ordinance and the Regulations have been complied with.	Not Present	Not Present	Not Present	Not Present	
19.	21 Committee of the board	(1) The Board shall establish an Audit Committee, comprising at least of one non-executive independent director. The board shall satisfy itself such that at least one member of the audit	(1) Subject to the provisions of this Chapter, every company shall, at the first annual general meeting, appoint an individual or a firm as an auditor who shall	Not Present	Not Present	Not Present	

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		committee has relevant financial skills/expertise and experience. (2) An Association which is not a Small-sized Association shall form a Procurement Committee comprising at least of one non-executive independent director. (3) An Association which is not a Small-sized Association shall also form a Human Resource and Remuneration Committee comprising at least of one non-executive independent director. The committee shall be responsible for: (a) recommending human resource management policies to the board; (b) recommending to the board the selection,	hold office from the conclusion of that meeting till the conclusion of its sixth annual general meeting and thereafter till the conclusion of every sixth meeting and the manner and procedure of selection of auditors by the members of the company at such meeting shall be such as may be prescribed: Provided that the company shall place the matter relating to such appointment for ratification by members at every annual general meeting: Provided further that before such appointment is made, the written consent of the auditor to such				

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		evaluation, compensation (including retirement benefits) and succession planning of the CEO; (c) recommending to the board the selection, evaluation, compensation (including retirement benefits) of CFO, Company Secretary and Chief internal auditor; and (d) consideration and approval on recommendations of CEO on such matters for key management positions who report directly to CEO or COO. Provided that CEO may be member of the committee but shall not participate in the proceedings of the committee on matters that directly relate to	appointment, and a certificate from him or it that the appointment, if made, shall be in accordance with the conditions as may be prescribed, shall be obtained from the auditor: Provided also that the certificate shall also indicate whether the auditor satisfies the criteria provided in section 141: Provided also that the company shall inform the auditor concerned of his or its appointment, and also file a notice of such appointment with the Registrar within fifteen days of the meeting in which the auditor is appointed. <i>Explanation.</i> —For the				

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		his performance and compensation. (4) The names of members of the committees of the board shall be disclosed in each annual report of the Association. (5) The Audit Committee of an association shall meet at least once every quarter of the financial year, including before and after completion of external audit. A meeting of the Audit Committee shall also be held, if requested by the external auditors or the chief internal auditor. (6) The CFO, the chief internal auditor and external auditors represented by engagement partner or in his absence any other partner	purposes of this Chapter, “appointment” includes reappointment. (2) No listed company or a company belonging to such class or classes of companies as may be prescribed, shall appoint or re-appoint— (a) an individual as auditor for more than one term of five consecutive years; and (b) an audit firm as auditor for more than two terms of five consecutive years: Provided that— (i) an individual auditor who has completed his term under clause (a) shall not be eligible for re-appointment as auditor in the same company for five years				

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		<p>designated by the audit firm shall attend meetings of the Audit Committee at which issues relating to accounts and audit are discussed. Provided that at least once a year, the Audit Committee shall meet the external auditors without the CFO and the chief internal auditor being present. Provided further that at least once a year, the Audit Committee shall meet the chief internal auditor and other members of the internal audit function without the CFO and the external auditors being present. Provided further that the chairman of the Audit Committee and engagement partner of external auditor or in</p>	<p>from the completion of his term;  <i>(ii)</i> an audit firm which has completed its term under clause (b), shall not be eligible for re-appointment as auditor in the same company for five years from the completion of such term:                      Provided further that as on the date of appointment no audit firm having a common partner or partners to the other audit firm, whose tenure has expired in a company immediately preceding the financial year, shall be appointed as auditor of the same company for a period of five years:                      Provided also that every company, existing on or before the</p>				

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		<p>his absence any other partner designated by the audit firm shall be present at the AGM for necessary feedback to the members.</p> <p>(7) The Board shall determine the terms of reference of the Audit Committee. The board shall provide adequate resources and authority to enable the Audit Committee carry out its responsibilities effectively. The Audit Committee shall, inter alia, recommend to the Board the appointment of external auditors, their removal, audit fees, the provision by the external auditors of any service to the association in addition to audit of its financial statements. The board shall give due consideration to the</p>	<p>commencement of this Act which is required to comply with provisions of this sub-section, shall comply with the requirements of this sub-section within three years from the date of commencement of this Act:</p> <p>Provided also that, nothing contained in this sub-section shall prejudice the right of the company to remove an auditor or the right of the auditor to resign from such office of the company.</p> <p>(3) Subject to the provisions of this Act, members of a company may resolve to provide that—</p> <p>(a) in the audit firm appointed by it, the auditing partner and his team shall be</p>				

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		<p>recommendations of the Audit Committee in all these matters and where it acts otherwise; it shall record the reasons thereof.</p> <p>(8) The terms of reference of the Audit Committee shall also include the following:</p> <p>(a) determination of appropriate measures to safeguard the association’s assets;</p> <p>(b) review of annual financial statements of the association, prior to their approval by the Board, focusing on:</p> <p>(i) major judgmental areas;</p> <p>(ii) significant adjustments resulting from the audit;</p> <p>(iii) the going concern assumption;</p> <p>(iv) any changes in accounting policies and practices;</p>	<p>rotated at such intervals as may be resolved by members; or</p> <p>(b) the audit shall be conducted by more than one auditor.</p> <p>(4) The Central Government may, by rules, prescribe the manner in which the companies shall rotate their auditors in pursuance of sub-section (2).</p> <p><i>Explanation.</i>—For the purposes of this Chapter, the word “firm” shall include a limited liability partnership incorporated under the Limited Liability Partnership Act, 2008.</p> <p>(5) Notwithstanding anything contained in sub-section (1), in the case of a Government company or any other</p>				

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		(v) compliance with applicable accounting standards and guidelines; (vi) compliance with statutory and regulatory requirements; and (vii) significant related party and connected person transactions. (c) facilitating the external audit and discussion with external auditors of major observations arising from the audit and any matter that the auditors may wish to highlight (in the absence of management, where necessary); (d) review of management letter issued by external auditors and management's response thereto;	company owned or controlled, directly or indirectly, by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, the Comptroller and Auditor-General of India shall, in respect of a financial year, appoint an auditor duly qualified to be appointed as an auditor of companies under this Act, within a period of one hundred and eighty days from the commencement of the financial year, who shall hold office till the conclusion of the annual general				

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		(e) ensuring coordination between the internal and external auditors of the association; (f) review of the scope and extent of internal audit and ensuring that the internal audit function has adequate resources and is appropriately placed within the association; (g) consideration of major findings of internal investigations of activities characterized by fraud, corruption and abuse of power and management's response thereto; (h) ascertaining that the internal control systems including financial and operational controls, accounting systems for timely and appropriate recording of purchases	meeting. (6) Notwithstanding anything contained in sub-section (1), the first auditor of a company, other than a Government company, shall be appointed by the Board of Directors within thirty days from the date of registration of the company and in the case of failure of the Board to appoint such auditor, it shall inform the members of the company, who shall within ninety days at an extraordinary general meeting appoint such auditor and such auditor shall hold office till the conclusion of the first annual general meeting. (7) Notwithstanding				

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		and sales, receipts and payments, assets and liabilities and the reporting structure are adequate and effective; (i) review of the association’s statement on internal control systems prior to endorsement by the Board and internal audit reports (j) remitting any matter to the external auditors or to any other external body in consultation with the CEO; (k) determination of compliance with relevant statutory requirements; (l) monitoring compliance with the best practices of corporate governance and identification of significant violations thereof; and (m) consideration of	anything contained in sub-section (1) or sub-section (5), in the case of a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government, or Governments, or partly by the Central Government and partly by one or more State Governments, the first auditor shall be appointed by the Comptroller and Auditor-General of India within sixty days from the date of registration of the company and in case the Comptroller and Auditor-General of India does not appoint such auditor within the said period,				

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		<p>any other issue or matter as may be assigned by the Board (9) The Audit Committee of an association shall appoint a secretary of the committee who shall either be the company secretary or chief internal auditor. However, CFO shall not be appointed as the secretary to the Audit Committee. The secretary shall circulate minutes of meetings of the Audit Committee to all members, directors, chief internal auditor and the CFO prior to the next meeting of the board and where this is not practicable, the Chairman of the Audit Committee shall communicate a synopsis of the proceedings to the</p>	<p>the Board of Directors of the company shall appoint such auditor within the next thirty days; and in the case of failure of the Board to appoint such auditor within the next thirty days, it shall inform the members of the company who shall appoint such auditor within the sixty days at an extraordinary general meeting, who shall hold office till the conclusion of the first annual general meeting.            (8) Any casual vacancy in the office of an auditor shall—            (i) in the case of a company other than a company whose accounts are subject to audit by an auditor appointed by the Comptroller and</p>				

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		board and the minutes shall be circulated immediately after the meeting of the board.	Auditor-General of India, be filled by the Board of Directors within thirty days, but if such casual vacancy is as a result of the resignation of an auditor, such appointment shall also be approved by the company at a general meeting convened within three months of the recommendation of the Board and he shall hold the office till the conclusion of the next annual general meeting; (ii) in the case of a company whose accounts are subject to audit by an auditor appointed by the Comptroller and Auditor-General of India, be filled by the Comptroller				

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			and Auditor-General of India within thirty days: Provided that in case the Comptroller and Auditor-General of India does not fill the vacancy within the said period, the Board of Directors shall fill the vacancy within next thirty days. (9) Subject to the provisions of sub-section (1) and the rules made thereunder, a retiring auditor may be re-appointed at an annual general meeting, if— (a) he is not disqualified for re-appointment; (b) he has not given the company a notice in writing of his unwillingness to be re-appointed; and (c) a special resolution has not been passed at that meeting				

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			appointing some other auditor or providing expressly that he shall not be re-appointed. (10) Where at any annual general meeting, no auditor is appointed or re-appointed, the existing auditor shall continue to be the auditor of the company. (11) Where a company is required to constitute an Audit Committee under section 177, all appointments, including the filling of a casual vacancy of an auditor under this section shall be made after taking into account the recommendations of such committee.				

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20.	22 External Auditors	(1) No association shall appoint as external auditors a firm of auditors which has not been given a satisfactory rating under the Quality Control Review program of ICAP. (2) No association shall appoint as external auditors a firm of auditors which or a partner of which is non-compliant with the International Federation of Accountants' (IFAC) Guidelines on Code of Ethics, as adopted by ICAP. (3) The Board shall recommend appointment of external auditors for a year, as suggested by the Audit Committee. The recommendations of the Audit Committee	Not Present	(1) At any time before the first annual general meeting of a company, the directors of the company may appoint, or (if the directors do not make an appointment) the company at a general meeting may appoint, a person to be the auditor of the company, and any auditor so appointed shall, subject to this section, hold office until the conclusion of the first annual general meeting.  (2) A company shall at each annual general meeting of the company appoint a person to be the auditor of the company, and any auditors so appointed shall, subject to this section, hold	Not Present	(1) The directors of a company shall, within 3 months after incorporation of the company, appoint a person or persons to be the auditor or auditors of the company, and any auditor or auditors so appointed shall, subject to this section, hold office until the conclusion of the first annual general meeting.  <a href="#">[15/84]</a> (2) A company shall at each annual general meeting of the company appoint a person or persons to be the auditor or auditors of the company, and any auditor or auditors so appointed shall, subject to this section, hold office until the conclusion of the next annual general meeting	

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		for appointment of an auditor or otherwise shall be included in the directors' report. In case of a recommendation for appointment of an auditor other than the retiring auditor the reasons for the same shall be included in the directors' report. (4) No association shall appoint its auditors to provide services in addition to audit except in accordance with the regulations and shall require the auditors to observe applicable IFAC guidelines in this regard and shall ensure that the auditors do not perform management functions or make management decisions, responsibility for which remains with the Board and the management.		office until the conclusion of the next annual general meeting of the company.  (3) Subject to subsections (7) and (8), the directors of a company may appoint an approved company auditor to fill any casual vacancy in the office of auditor of the company, but while such a vacancy continues the surviving or continuing auditor, if any, may act.  (4) An auditor of a company may be removed from office by resolution of the company at a general meeting of which special notice has been given, but not otherwise.  (5) Where special		of the company. (3) Subject to subsections (7) and (8), the directors of a company may appoint a public accountant to fill any casual vacancy in the office of auditor of the company, but while such a vacancy continues the surviving or continuing auditor or auditors, if any, may act. (4) An auditor of a company may be removed from office by resolution of the company at a general meeting of which special notice has been given, but not otherwise. (5) Where special notice of a resolution to remove an auditor is received by a company — (a)	

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		<p>(5) An Association which is not a Small-sized Association shall change its external auditors every five years.</p> <p>(6) No association shall appoint a person as an external auditor or as a person involved in the audit of the association who is a close relative, i.e., spouse, parents, dependents and non-dependent children, of the director, CEO, CFO, or an internal auditor of the association.</p> <p>(7) Every association shall require external auditors to furnish a Management Letter to its Board within 45 days of the date of auditors' report:            Provided that any matter deemed significant by the external auditor shall</p>		<p>notice of a resolution to remove an auditor is received by a company—</p> <p>(a) it shall forthwith send a copy of the notice to the auditor concerned and to the Registrar; and</p> <p>(b) the auditor may, within seven days after the receipt by him of the copy of the notice make representations in writing to the company (not exceeding a reasonable length) and request that, prior to the meeting at which the resolution is to be considered, a copy of the representations be sent by the company to every member of the company to whom notice of the meeting is sent.</p>		<p>it shall immediately send a copy of the notice to the auditor concerned and to the Registrar; and</p> <p>(b) the auditor may, within 7 days after the receipt by him of the copy of the notice, make representations in writing to the company (not exceeding a reasonable length) and request that, prior to the meeting at which the resolution is to be considered, a copy of the representations be sent by the company to every member of the company to whom notice of the meeting is sent.</p> <p>(6) Unless the Registrar on the application of the company otherwise orders, the company</p>	

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		be communicated in writing to the board prior to the approval of the audited accounts by the board.		<p>(6) Unless the Registrar on the application of the company otherwise orders, the company shall send a copy of the representations as so requested and the auditor may (without prejudice to his right to be heard orally) require that the representations be read out at the meeting.</p> <p>(7) Where an auditor of a company is removed from office in pursuance of subsection (4) at a general meeting of the company—</p> <p>(a) the company may, at the meeting, by a resolution passed by a majority of not less than three-fourths of such members of the</p>		<p>shall send a copy of the representations as so requested and the auditor may, without prejudice to his right to be heard orally, require that the representations be read out at the meeting.</p> <p>(7) Where an auditor of a company is removed from office in pursuance of subsection (4) at a general meeting of the company —</p> <p>(a) the company may, at the meeting, by a resolution passed by a majority of not less than three-fourths of such members of the company as being entitled to do so vote in person or, where proxies are allowed, by proxy immediately appoint another person</p>	

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				company as being entitled so to do vote in person or, where proxies are allowed, by proxy forthwith appoint another person nominated at the meeting as auditor; or  <i>(b)</i> the meeting may be adjourned to a date not earlier than twenty days and not later than thirty days after the meeting and the company may, by ordinary resolution, appoint another person as auditor, being a person notice of whose nomination as auditor has, at least ten days before the resumption of the adjourned meeting, been received by the company.  (8) A company shall, forthwith after the		nominated at the meeting as auditor; or <i>(b)</i> the meeting may be adjourned to a date not earlier than 20 days and not later than 30 days after the meeting and the company may, by ordinary resolution, appoint another person as auditor, being a person notice of whose nomination as auditor has, at least 10 days before the resumption of the adjourned meeting, been received by the company. (8) A company shall, immediately after the removal of an auditor from office in pursuance of subsection (4), give notice in writing of the removal to the Registrar and, if the company does not	

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				<p>removal of an auditor from office in pursuance of subsection (4), give notice in writing of the removal to the Registrar and, if the company does not appoint another auditor under subsection (7), the Registrar shall appoint an auditor.</p> <p>(9) An auditor appointed in pursuance of subsection (7) or (8) shall, subject to this section, hold office until the conclusion of the next annual general meeting of the company.</p> <p>(10) If a company does not appoint an auditor as required by this section, the Registrar may on the application in writing of any</p>		<p>appoint another auditor under subsection (7), the Registrar shall appoint an auditor.</p> <p>(9) An auditor appointed in pursuance of subsection (7) or (8) shall, subject to this section, hold office until the conclusion of the next annual general meeting of the company.</p> <p>(10) If the directors do not appoint an auditor or auditors as required by this section, the Registrar may on the application in writing of any member of the company make the appointment.</p> <p style="text-align: right;"><i>[15/84]</i></p> <p>(11) Subject to subsection (7), a person shall not be capable of being appointed auditor of a company at an annual general</p>	

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				member of the company make the appointment.  (11) Subject to subsection (7), a person shall not be capable of being appointed auditor of a company at an annual general unless he held office as auditor of the company immediately before the meeting or notice of his nomination as auditor was given to the company by a member of the company not less than twenty-one days before the meeting.  (12) Where notice of nomination of a person as an auditor of a company is received by the company whether for appointment at an adjourned meeting under subsection (7) or		meeting unless he held office as auditor of the company immediately before the meeting or notice of his nomination as auditor was given to the company by a member of the company not less than 21 days before the meeting.  (12) Where notice of nomination of a person as an auditor of a company is received by the company whether for appointment at an adjourned meeting under subsection (7) or at an annual general meeting, the company shall, not less than 7 days before the adjourned meeting or the annual general meeting, send a copy of the notice to the person nominated, to	

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				at an annual general meeting, the company shall, not less than seven days before the adjourned meeting or the annual general meeting, send a copy of the notice to the person nominated, to each auditor, if any, of the company and to each person entitled to receive notice of general meetings of the company.  (13) If, after notice of nomination of a person as an auditor of a company has been given to the company, the annual general meeting of the company is called for a date twenty-one days or less after the notice has been given, subsection (11) shall not apply in relation to		each auditor, if any, of the company and to each person entitled to receive notice of general meetings of the company. (12A) Where a resolution under section 175A is in force and the auditor or auditors of the company is or are to be appointed by a resolution by written means under section 184A by virtue of section 175A(10), references in subsections (11) and (12) to the date of an annual general meeting shall be read as references to the time — (a) agreement to that resolution is sought in accordance with section 184C; or	

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				<p>the person and, if the annual general meeting is called for a date not more than seven days after the notice has been given and a copy of the notice is, at the time notice of the meeting is given, sent to each person to whom, under subsection (12), it is required to be sent, the company shall be deemed to have complied with that subsection in relation to the notice.</p> <p>(14) An auditor of a company may resign—</p> <p>(a) if he is not the sole auditor of the company; or</p> <p>(b) at a general meeting of the company, but not otherwise.</p>		<p>(b) documents referred to in section 183(3A) in respect of the resolution are served or made accessible in accordance with section 183(3A), as the case may be.</p> <p><a href="#">[8/2003]</a></p> <p>(13) If, after notice of nomination of a person as an auditor of a company has been given to the company, the annual general meeting of the company is called for a date 21 days or less after the notice has been given, subsection (11) shall not apply in relation to the person and, if the annual general meeting is called for a date not more than 7 days after the notice has been given and a copy of the</p>	

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				<p>(15) If an auditor gives notice in writing to the directors of the company that he desires to resign, the directors shall call a general meeting of the company as soon as is practicable for the purpose of appointing an auditor in place of the auditor who desires to resign and on the appointment of another auditor the resignation shall take effect.</p> <p>(16) The fees and expenses of an auditor of a company—</p> <p>(a) in the case of an auditor appointed by the company at a general meeting—shall be fixed by the company in general meeting or, if so</p>		<p>notice is, at the time notice of the meeting is given, sent to each person to whom, under subsection (12), it is required to be sent, the company shall be deemed to have complied with that subsection in relation to the notice.</p> <p>(14) An auditor of a company may resign —</p> <p>(a) if he is not the sole auditor of the company; or</p> <p>(b) at a general meeting of the company, but not otherwise.</p> <p>(15) If an auditor gives notice in writing to the directors of the company that he desires to resign, the directors shall call a general meeting of the company as soon as is</p>	

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				<p>authorized by the members at the last preceding annual general meeting, by the directors; and</p> <p><i>(b)</i> in the case of an auditor appointed by the directors or by the Registrar—may be fixed by the directors or by the Registrar, as the case may be and, if not so fixed, shall be fixed as provided in paragraph <i>(a)</i> as if the auditor had been appointed by the company.</p>		<p>practicable for the purpose of appointing an auditor in place of the auditor who desires to resign and on the appointment of another auditor the resignation shall take effect.</p> <p>(16) The fees and expenses of an auditor of a company —</p> <p style="text-align: right;"><i>(a)</i></p> <p>in the case of an auditor appointed by the company at a general meeting — shall be fixed by the company in general meeting or, if so authorised by the members at the last preceding annual general meeting, by the directors; and</p> <p style="text-align: right;"><i>(b)</i></p> <p>in the case of an auditor appointed by the directors or by the Registrar — may be</p>	

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						fixed by the directors or by the Registrar, as the case may be, and, if not so fixed, shall be fixed as provided in paragraph (a) as if the auditor had been appointed by the company. (17) If default is made in complying with this section, the company and every director of the company who is in default shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.	
21.	23 compliance with the regulations	(1) All associations shall publish and circulate a statement in the format set out in Form-N6, along with their annual reports to set out the status of their compliance with the requirements of best practices of corporate	Not Present	Not Present	Not Present	Not Present	

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		<p>governance. The statement shall be specific and deemed to be supported by the necessary evidence held by the association making the said statement.</p> <p>(2) All associations shall ensure that the statement of compliance with the best practices of corporate governance is reviewed and certified by statutory auditors, where such compliance can be objectively verified, before its publication. Statutory auditors of the association shall ensure that any non-compliance with the requirements of these Regulations is highlighted in their review report.</p>					

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22.	24 Relaxation of the regulations	Where the Commission is satisfied that it is not practicable to comply with any requirement of these Regulations in a particular case or class of cases, the Commission may, for reasons to be recorded, relax such requirement subject to such conditions as it may deem fit.	Not Present	Not Present	Not Present	<p>(1) If in any proceedings for negligence, default, breach of duty or breach of trust against a person to whom this section applies it appears to the court before which the proceedings are taken that he is or may be liable in respect thereof but that he has acted honestly and reasonably and that, having regard to all the circumstances of the case including those connected with his appointment, he ought fairly to be excused for the negligence, default or breach the court may relieve him either wholly or partly from his liability on such terms as the court thinks fit.</p> <p>(1A) For the</p>	

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						avoidance of doubt and without prejudice to the generality of subsection (1), "liability" includes the liability of a person to whom this section applies to account for profits made or received. <i>[8/2003]</i> (2) Where any person to whom this section applies has reason to apprehend that any claim will or might be made against him in respect of any negligence, default, breach of duty or breach of trust he may apply to the Court for relief, and the Court shall have the same power to relieve him as under this section it would have had if it had been a court before which proceedings	

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						against him for negligence, default, breach of duty or breach of trust had been brought. (3) The persons to whom this section applies are — (a) officers of a corporation; (b) persons employed by a corporation as auditors, whether they are or are not officers of the corporation; (c) experts within the meaning of this Act; and (d) persons who are receivers, receivers and managers or liquidators appointed or directed by the Court to carry out any duty under this Act in relation to a	

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						corporation and all other persons so appointed or so directed.	
23.	25 Compliance visits and inspection	(1) The Commission may appoint and authorize in writing one or more persons including officer of the Commission and outsourced professional as inspector (the inspector) to visit the projects and useful work being carried on by an association licensed and registered by the Commission and inspect any or all of its statutory books including books of account, registers, minute books and any other records in order to ascertain compliance with the provisions of these regulations, the Ordinance, orders or	(1) Where a Registrar or inspector calls for the books of account and other books and papers under section 206, it shall be the duty of every director, officer or other employee of the company to produce all such documents to the Registrar or inspector and furnish him with such statements, information or explanations in such form as the Registrar or inspector may require and shall render all assistance to the Registrar or inspector in connection with	Not Present	<b>42 Investigation</b> (1) The Regulator may— (a) investigate the affairs of a community interest company, or (b) appoint any person (other than a member of the Regulator’s staff) to investigate the affairs of a community interest company on behalf of the Regulator. (2) Subsection (1)(b) is in addition to paragraph 5 of Schedule 3 (powers of Regulator exercisable by authorised members of staff) and does not affect the application of that	(1) The Minister may appoint one or more inspectors to investigate the affairs of a company or such aspects of the affairs of a company as are specified in the instrument of appointment and to report thereon in such manner as the Minister directs — (a) in the case of a company having a share capital, on the application of — (i) not less than 200 members (excluding the company itself if it is registered as a member) or of	

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		directions given by the Commission and to assess whether funds have been applied properly and the business of the association licensed and registered by the Commission is being carried on in accordance with the provisions of its memorandum and articles of association. (2) The inspector shall have access to the premises occupied by the association licensed under section 42 and register with the Commission or any other person on its behalf and may examine any books, record, documents and computer-data in possession of the association or any other person and obtain	such inspection. (2) The Registrar or inspector, making an inspection or inquiry under section 206 may, during the course of such inspection or inquiry, as the case may be,— (a) make or cause to be made copies of books of account and other books and papers; or (b) place or cause to be placed any marks of identification in such books in token of the inspection having been made. (3) Notwithstanding anything contained in any other law for the time being in force or in any contract to the contrary, the Registrar or inspector making an inspection or inquiry shall		paragraph to the Regulator’s power under subsection (1)(a). (3) Schedule 7 (further provision about investigations under this section) has effect. <b>43 Audit</b> (1) The Regulator may by order require a community interest company to allow the annual accounts of the company to be audited by a qualified auditor appointed by the Regulator. (2) A person is a qualified auditor if he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989 (c. 40) (eligibility for appointment as	members holding not less than 10% of the shares issued (excluding treasury shares); or (ii) holders of debentures holding not less than 20% in nominal value of debentures issued; (b) in the case of a company not having a share capital, on the application of not less than 20% in number of the persons on the company’s register of members; or (c) in any case on the application of a company in pursuance of a special resolution. (2) An application under this section shall be supported by such evidence as the Minister requires as to	

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		<p>copies of documents or other materials which, in the opinion of the inspector, are relevant.</p> <p>(3) The inspector shall submit his report to the Commission within the time and according to the terms of reference specified in the order.</p> <p>(4) The Commission shall communicate findings of the inspection to the association and provide a reasonable opportunity of being heard to the association before taking any action under the law in light of any findings of the inspection.</p> <p>(5) On receipt of explanation, if any, from the association inspected under these Regulations, the Commission may require such association</p>	<p>have all the powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:—</p> <p>(a) the discovery and production of books of account and other documents, at such place and time as may be specified by such Registrar or inspector making the inspection or inquiry;</p> <p>(b) summoning and enforcing the attendance of persons and examining them on oath; and</p> <p>(c) inspection of any books, registers and other documents of the company at any place.</p> <p>(4) (i) If any director or officer of the company</p>		<p>auditor).</p> <p>(3) Sections 389A and 389B of the Companies Act 1985 (c. 6) (auditor’s rights to information) apply in relation to an auditor appointed under this section as in relation to an auditor appointed under Chapter 5 of Part 11 of that Act.</p> <p>(4) On completion of the audit the auditor must make a report to the Regulator on such matters and in such form as the Regulator specifies.</p> <p>(5) The expenses of the audit, including the remuneration of the auditor, are to be paid by the Regulator.</p> <p>(6) An audit under this section is in addition to, and does not affect, any audit</p>	<p>the reasons for the application and the motives of the applicants in requiring the investigation, and the Minister may before appointing an inspector require the applicants to give security for such amount as he thinks fit for payment of the cost of the investigation.</p>	

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		to take such measures as it may deem fit to ensure compliance with the legal framework and in the overall interest of public and the not for profit sector in Pakistan.	disobeys the direction issued by the Registrar or the inspector under this section, the director or the officer shall be punishable with imprisonment which may extend to one year and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees. (ii) If a director or an officer of the company has been convicted of an offence under this section, the director or the officer shall, on and from the date on which he is so convicted, be deemed to have vacated his office as such and on such vacation of office, shall		required by or by virtue of any other enactment.		

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			be disqualified from holding an office in any company				
24.	26 Penalties	Whoever fails or refuses to comply with, or contravenes any provision of these Regulations, or knowingly and willfully authorises or permits such failure, refusal or contravention shall, in addition to any other liability under the Ordinance, he shall be punishable with fine which may extend to five hundred thousand rupees and, where the contravention is a continuing one, with a further fine which may extend to ten thousand rupees for every day after during which such contravention continues.	(11) If a company makes any default in complying with any of the requirements laid down in this section, the company shall, without prejudice to any other action under the provisions of this section, be punishable with fine which shall not be less than ten lakh rupees but which may extend to one crore rupees and the directors and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years	(1) Any person who with intent to defeat the purposes of this Part or to delay or obstruct the carrying out of an investigation under this Part— (a) destroys or alters any book, document or record of correlating to a declared company; or (b) sends or attempts to send or conspires with any other person to send out of Malaysia any such book, document or record or any property of any description belonging to or in the disposition or under the control of such a company, shall be guilty of an offence against this Act.	(1) The Regulator may bring civil proceedings in the name and on behalf of a community interest company. (2) Before instituting proceedings under this section the Regulator must give written notice to the company stating— (a) the cause of action, (b) the remedy sought, and (c) a summary of the facts on which the proceedings are to be based. (3) Any director of the company may apply to the court for an order— (a) that proposed proceedings are not to be instituted under this	Not Present	

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			or with fine which shall not be less than twenty-five thousand rupees but which may extend to twenty-five lakh rupees, or with both: Provided that when it is proved that the affairs of the company were conducted fraudulently, every officer in default shall be liable for action under section 447.	Penalty: Imprisonment for *five years or thirty thousand ringgit.  (2) If in any prosecution for an offence against this section it is proved that the person charged with the offence— (a) has destroyed or altered any book, document or record of or relating to the company; or (b) has sent or attempted to send or conspired to send out of Malaysia any book, document or record or any property of any description belonging to or in the disposition or under the control of the company, the onus of proving that in so doing he had not acted with intent to defeat the purposes of this Part or to delay or	section, or (b) that proceedings instituted under this section are to be discontinued. (4) On an application under subsection (3) the court may make such order as it thinks fit. (5) In particular the court may (as an alternative to ordering that proposed proceedings are not to be instituted under this section or that proceedings instituted under this section are to be discontinued) order— (a) that the proposed proceedings may be instituted under this section, or the proceedings instituted under this section may be continued, on		

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				obstruct the carrying out of an investigation under this Part shall lie on him.	such terms and conditions as the court thinks fit, (b) that any proceedings instituted by the company are to be discontinued, or (c) that any proceedings instituted by the company may be continued on such terms and conditions as the court thinks fit. (6) The Regulator must indemnify the company against any costs (or expenses) incurred by it in connection with proceedings brought under this section. (7) Any costs (or expenses)— (a) awarded to the company in connection with proceedings brought under this section, or (b) incurred by the		

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					company in connection with the proceedings and which it is agreed should be paid by a defendant (or defender), are to be paid to the Regulator.		