

KARACHI: Pakistan Business Council (PBC) disfavours a mandatory disclosure of stockholding by Pakistanis in foreign enterprises under the recently amended companies law.

PBC said there is no global precedence of the use of companies' law to unearth interests in entities, local or foreign, other than those that could lead to potential conflict of interest. The council said it supports the government and Securities and Exchange Commission of Pakistan (SECP) on the direction of the changes in the companies law, "but feels that more needs to be done to promote corporatisation and the formal sector".

The SECP introduced some changes in the Companies Act 2017 through the Companies (Amendment) Ordinance 2020. A section (452) of the Companies Act 2017 requires all interests in foreign companies, no matter how small, to be declared by officers and substantial shareholders of Pakistani companies to the SECP.

The changes brought about by the amendment ordinance are to limit the declaration to interests over 10 percent in the overseas company and to protect its confidentiality. "Whilst these changes are in the right direction, the PBC continues to advocate the complete withdrawal of the section 452," said the business policy advocacy forum composed of the country's largest businesses.

"Provisions such as section 452 encourage businesses to remain in the informal and unincorporated sector. They also make it more difficult to do business." PBC members contribute 25 percent of the annual tax revenues and 40 percent of exports.

The group said the Foreign Assets Declaration and Repatriation Act 2018 (FADRA) has superseded the Companies Act 2017, as also all previous laws, with respect to confidentiality. The purpose of discovering shareholding by Pakistanis in companies abroad is now served through FADRA. "Section 452 of the Companies Act is therefore superfluous."

The council further said the country is a signatory to the Organisation for Economic Cooperation and Development Convention on exchange of information on overseas interests.

This is the channel used by administrations across the world to unearth assets held abroad. The information contained in the declarations is not shared with shareholders in the annual or other reports. No corporate governance or investor interest is therefore served by the section 452.

PBC said the SECP turns out to be merely a post office for the Federal Board of Revenue under the section. "It has no expertise to verify or add value to the information obtained from the declarations," it said. "SECP's time and effort would be better spent on more value-adding functions."

The council said tax and exchange control laws and conventions should be used to discover overseas interests, instead of misusing the companies act to encumber investors, and officers associated with generally well-regulated and tax-compliant corporates in the formal sector with further reporting responsibilities.

"Discriminating against the corporate sector cannot (and should not) be the objective of law. Jobs, exports and tax revenues are generated predominantly by the corporate sector, which PBC strongly believes deserves more trust, support and empowerment," the PBC said.

Aside from withdrawing section 452, the PBC requested the SECP to redefine related parties under section 208 and restore the provisions of section 181 with respect to independent and non-executive directors.