

Listed Companies (Buy-Back of Shares) Regulations, 2016

Eligibility Requirements for the Purchase (Reg # 3)

A company shall be eligible to purchase if it:

- Is listed on securities exchange for at least 2 years;
- Is included in the list of margin eligible securities for the last 1 year issued by clearing house;
- Has paid-up capital of at least Rs.200 million after the purchase;
- Is compliant with minimum capital or equity requirements, if any, after the purchase;
- Is compliant with the minimum free float requirement of securities exchange, after the purchase and has obtained a certificate from the securities exchange to this effect;
- Has obtained approval of its members for purchase through special resolution;
- Has obtained a certificate from the statutory auditors certifying therein that the funds specified for the purchase by the board of directors of the purchasing company are available;
- Has obtained no objection from its creditors; and
- Shall disclose all the price sensitive information on a full and prompt basis and submit to SECP, an undertaking on non-judicial stamp paper, to this effect.

Board of directors of a company **shall not propose or recommend a purchase** in any of the following cases:

- Voluntary winding up is commenced;
- Winding up proceedings commenced by SECP or registrar;
- Inquiry or investigation is commenced and not yet concluded against the purchasing company in any matter by SECP or any other regulatory body or any investigating agency;
- Proceedings related to oppression, mismanagement or change of management are initiated by SECP or any other regulatory body and yet not concluded;
- A scheme of arrangement, compromise, reconstruction, merger, de-merger is in process;
- A public offer for acquisition of shares of the purchasing company under Securities Act is commenced; and
- Before the expiry of 3 months from date of an earlier general meeting in which purchase was disapproved by members.

The Purchase Procedure (Reg # 4 to 8)

Procedure for Purchase (Reg # 4)

- General meeting for passing special resolution shall be held within 5 weeks of date of board meeting in which the purchase is recommended.
- Purchasing company shall make a public announcement within 2 working days of special resolution.
- Purchasing company shall, before making the public announcement, appoint a manager to the purchase.
- Purchasing company shall, within 5 days of public announcement, dispatch through registered mail or courier or any other mode of communication approved by SECP, to all its members including custodian of depository receipts and other securities convertible into the shares being purchased, if any, whose names appear on the register of members:
 - The offer letter;
 - A copy of the public announcement; and
 - The share tender form (in case of a tender offer)

Manager to the Purchase

Means a securities broker licensed by SECP under Securities Act and appointed by the purchasing company as its agent for the purchase in accordance with these regulations;

Offer Letter

Means the letter containing an offer for the purchase, on the format prescribed in Schedule I and includes, purchase through tender offer and purchase through securities exchange;

Share Tender Form

Means the application form, for tendering of shares by the shareholders to the manager to the purchase, on the format as prescribed in Schedule III;

Tender Offer

Means an offer to the shareholders by the purchasing company for buy-back of its shares

Additional Procedure for Tender Offer (Reg # 5)

- Company shall, before making public announcement, open an escrow account with a scheduled bank;
- Company shall deposit following amount of cash in this account for making payments against purchase:
 - 25% of the consideration payable up to a payable of Rs 100 million
 - 10% of the additional amount in case the payable exceeds Rs 100 million

Note: Where purchasing company may also arranges an unconditional and irrevocable bank guarantee from an A+ rated scheduled bank in favour of manager to the purchase in lieu of the above amounts

- Remaining or (in case of a bank guarantee) the entire consideration shall be deposited by the company in the escrow account at least 3 working days before the close of the purchase period;
- Company shall open a designated CDC account;
- Shares tendered for sale in physical form shall not be accepted for the purchase;
- Shares shall be tendered through the share tender form to the manager to the purchase before closing of the purchase period;
- Within 5 days of closing of purchase period, manager to the purchase shall prepare a list containing:
 - Names of all those shareholders who have tendered shares for sale;
 - Number of shares tendered;
 - Number of shares accepted by the purchasing company for the purchase from each shareholder;
- Where shares tendered for sale by shareholders exceed the number of shares announced to be purchased:
 - 1st preference shall be given to applications up to 500 shares
 - After accommodating above, 2nd preference shall be given to applications up to 1000 shares
 - After accommodating above, 3rd preference shall be given to applications up to 1500 shares
 - After accommodating above, 4th preference shall be given to applications up to 2000 shares
 - After accommodating above, the balance shares, if any, shall be purchased on prorata basis from all the shareholders who have tendered more than 2000 shares

Note: If all the applications in any of the above preferences or level cannot be accommodated, a balloting shall be conducted among applications exceeding the immediately preceding level.

- Where shares tendered for sale by a shareholder are less than the minimum marketable lot, the entire lot so tendered shall be accepted and shall not be included in the pro-rata calculation;
- Payment for accepted shares shall be made by manager to the purchase through a bank draft or pay order out of the escrow account not later than 7 days of the closing of the purchase period; and
- Unaccepted shares, if any, shall be returned within 7 days of the closing of the purchase period.

Additional procedure for Purchase through securities exchange (Reg # 6)

- Purchase shall be made through the automated trading system of securities exchange;
- Bid(s) for the purchase shall not be made during first half hour and last half hour of each trading session;
- At the end of each trading day on which the purchase is made, the executed transactions shall be reported to the purchasing company by the manager to the purchase; and
- Purchasing company shall deposit the consideration payable in the clearing bank account of the manager to the purchase at least 1 day before the settlement date.
- The bid(s) for the purchase shall be made in accordance with the purchase price; and

Purchase Period (Reg # 7)

- The purchase period shall be a period of:
 - 30 days commencing from the date of dispatch of the offer letter
(Purchase through tender offer)
 - 180 calendar days commencing from date of dispatch of offer letter; or till such date that purchase is completed or approved allocated funds are utilized, whichever is earlier.
(Purchase through securities exchange)
- The purchase period shall not be extended.

Purchase Price (Reg # 8)

- Shall be the price as recommended by board and approved by members through special resolution
(Purchase through tender offer)
Provided that it shall not be less than the 30 days weighted average price of the share; and
- Shall not be more than 5% above the weighted average market price of the share of the purchasing company for last 90 days immediately prior to the date on which the shares are purchased
(Purchase through the securities exchange);

Regulations regarding Treasury Shares

"Treasury Shares" means the shares purchased and held by the purchasing company in its own name in accordance with section 95A of the Ordinance and these regulations.

Limits on Treasury Shares (Reg # 9)

- Treasury shares shall not at any time exceed 10% of total paid up share capital of purchasing company.
- Where purchasing company has different classes of shares, treasury shares for any class of shares shall not at any time exceed 10% of total issued and paid up shares of such class of shares.
- Treasury shares shall be held in the name of purchasing company in a CDC Blocked Account
- Treasury shares shall not be used for taking any fund based or non-fund based exposure including pledging, guaranteeing, etc. by the purchasing company or any other person.
- Any shares allotted as fully paid bonus shares in respect of treasury shares, shall be treated as treasury shares for purposes of these regulations and shall be held in name of company in CDC Blocked Account
- Treasury shares shall not be entitled to any right issue or voting rights.

Disposal of the Treasury Shares (Reg # 15)

- Treasury shares shall not be sold, transferred or otherwise disposed of by purchasing company within 6 months from the closure of the purchase period.
- Purchasing company shall not issue further capital, other than bonus shares unless the treasury shares held by it are disposed off.
- Treasury shares shall not be disposed of through negotiated deals.
- Purchasing company may dispose of treasury shares in any of the following manners or combination:
 - Sell the treasury shares against consideration in the market through securities exchange's automated trading system; and
 - Sell the treasury shares to its employees under Public Companies (Employees Stock Options Scheme) Rules, 2001 under the authority of a special resolution and with prior written approval of SECP.

Procedure for Sale of treasury shares through the securities exchange:

- Decision of sale shall be made by board of directors;
- Decision shall be communicated to SECP and the securities exchange on the day of decision;
- Treasury Shares shall not be sold before the expiry of 7th day of the decision of the board;
- Daily sale volume shall not be higher than 20% of the average traded volume over last 30 trading days;
- Price for sale of Treasury Shares shall not be less than the weighted average market price for the thirty trading days immediately prior to the sale or the weighted average cost per Treasury Share whichever is higher.

Procedure for Sale under Public Companies (Employees Stock Options Scheme) Rules, 2001

It shall annex a statement of facts to the notice of general meeting containing information required under the Ordinance and any other law including the following:

- Number and price of the Treasury Shares to be sold;
 - Purpose of the sale and its benefits to the company and its shareholders; and
 - Price at which the Treasury Shares were purchased.
- Purchasing company shall not dispose of Treasury Shares in any manner from date of a public announcement of offer for acquisition of shares of the purchasing company made by an acquirer under the Securities Act till the time the acquisition process is complete.
 - Purchasing company shall file following information with registrar concerned within 30 days of disposal:
 - Mode of disposal;
 - Maximum number of Treasury Shares available for sale;
 - Total number of shares sold;
 - Date-wise and price-wise breakup of shares sold;
 - Total consideration received;
 - Cumulative number of Treasury Shares sold to date;
 - Number of balance Treasury Shares if any; and
 - Cumulative number of shares cancelled to date.

OBLIGATIONS AND RESTRICTIONS**Purchasing company shall: (Reg # 10)**

- Communicate to SECP and securities exchange, the decision of board of directors to purchase;
- Make public announcement on format specified in Schedule II and publish it in at least 2 daily newspapers, one each in Urdu and English languages having nationwide circulation at least 7 days before the commencement of purchase period;
- Appoint a manager to the purchase under an agreement explicitly stating the role and responsibilities of both the parties to the agreement in accordance with the provisions of these regulations;
- Appoint an officer, well conversant with the purchase, as the contact person who shall be responsible for complaints lodged and queries made regarding the purchase;
- Cancel the shares within 10 days of closing of purchase period (if those are to be cancelled);
- Within 3 days of said board meeting, submit, electronically or manually, to the securities exchange, the minutes of the meeting and also provide the following documents:
 - Latest publicly available accounts and audited accounts of purchasing company for last financial year;
 - Current ratio of the purchasing company calculated on the basis of its audited accounts for the last financial year and latest publicly available accounts and calculations thereof (except where the purchasing company is a financial institution);
 - Auditor's certificate regarding availability of funds;
 - Declaration of solvency; and
 - An undertaking by purchasing company that it meets all the conditions laid down in the regulations.
- Submit to SECP a statement containing all material facts required, including the following along with the notice of general meeting in which the purchase is to be considered for the approval of members, namely:
 - Purpose of the purchase (i.e. cancellation or retention as treasury shares);
 - Justification for the purchase and the purchase price;
 - Total number of issued shares;
 - Quantum of the purchase, (number of shares as well as percentage of issued shares);
 - Price at which the shares will be purchased, in case of tender offer;
 - Mode of purchase (i.e. through tender offer or through securities exchange);
 - Purchase period;
 - Funds allocated for the purchase and source of those funds;
 - Effect of the purchase on the balance sheet of the purchasing company;
 - Nature and extent of the interest in purchase, if any, of every director, whether directly or indirectly;
 - Risks and benefits of the proposed purchase to the purchasing company and its members;
- Submit to SECP, securities exchange and depository company, a copy of special resolution within 15 days of general meeting specifying the exact number and percentage of shares to be purchased, mode of the purchase, allocated funds and the purchase period;
- Submit to SECP and securities exchange, the published copies of the public announcement within 2 days of its publication;
- Submit to SECP and securities exchange an undertaking duly signed by all the directors, including the chief executive officer, stating that:
 - Public announcement has been seen and approved by us;
 - Information provided in the public announcement is true and accurate to the best of our knowledge and belief; and
 - We individually and collectively accept full responsibility for the accuracy of the information given and confirm that no facts have been concealed.
- Intimate to SECP and securities exchange on day of closing of purchase period, number of shares purchased, and advertise same within 02 days of closure of purchase period in same newspapers in which the public announcement was published;
- Comply with the International Financial Reporting Standards relating to the treasury shares;
- Comply with all legal and procedural requirements relating to cancellation of shares in case the purchase is for the purpose of cancellation of shares;
- Disclose in its annual report, detail of shares purchased and detail of treasury shares disposed of and such disclosures shall contain at least number of shares purchased or sold and price of purchase or sale; and
- File with registrar within 30 days of closing of purchase period the copy of following documents:
 - Board of directors resolution regarding the purchase;
 - Special resolution authorizing the purchase;
 - Notice of the general meeting in which the special resolution was passed;
 - Declaration of solvency; and
 - Public announcement.
- Report to the securities exchange the number of shares purchased on daily basis for public dissemination.

Purchasing company shall not: (Reg # 11)

- Apply for voluntary delisting or voluntary winding up within 12 months of close of purchase period;
- Engage in the sale of the already held treasury shares through the securities exchange during the;
 - Purchase period and during 2 trading days immediately after the closing of the purchase period; and
 - Period it is in possession of price sensitive information.
- Withdraw, cancel or postpone the purchase once announced (except as per Reg # 12);
- Make a purchase before expiry of 12 months from last date of subscription for any further issue of capital.
- Make a new purchase before the expiry of at-least 1 year from the date of submission of the final report of the previous purchase to SECP by the manager to the purchase.

Explanation: For the purposes of last 2 points, the purchase or new purchase shall be deemed to commence from date of general meeting of the purchasing company wherein the purchase is approved.

Restriction on directors, etc (Reg # 12)

- Recommendation for purchase by board of directors or public announcement made by the purchasing company shall not be withdrawn except where it is not approved by members in general meeting
- Directors, officers, associated companies and undertakings, shareholders holding 10% or more voting shares of purchasing company, manager to the purchase shall not disclose inside information about the purchase to any person and shall not misuse their positions to gain any benefit for themselves directly or indirectly or for any other person.
- Directors, officers, associated companies and undertakings, shareholders holding more than 10% voting shares of the purchasing company shall not directly or indirectly trade in shares of purchasing company during period from the date of meeting of board till the commencement of the purchase period.

Manager to the Purchase (Reg # 13)

The manager to the purchase shall not be an associated company or undertaking of the purchasing company.

Manger to the Purchase shall: (Reg # 14)

- At all times ensure that the purchasing company is in compliance with the provisions of section 95A of the Ordinance and these regulations and shall inform SECP of any non-compliance immediately;
- Acknowledge the receipts of shares tendered for sale and hold the same in safe custody;
- Accept shares tendered for sale in accordance with these regulations;
- Make payment against the shares accepted within the prescribed time period;
- Return, in case of withdrawal of offer, all shares tendered for sale in specified manner;
- Submit a final report on purchase to SECP and securities exchange, within 15 days of closing of Purchase Period containing details specified in Schedule IV (tender offer) or Schedule V (securities exchange); and
- Open a designated CDC account for the purpose of the purchase.
- Make arrangements for the purchase to be done at the securities exchange;
- Ensure that the purchase is made through the automated trading system of the securities exchange;
- Make bid(s) for the purchase only in the manner specified; and
- Report to the purchasing company details of the executed transactions at the end of each trading day;

The shares tendered to manager to the purchase, through Designated CDC Account, for sale to purchasing company shall, till the time the consideration for the shares is paid to the shareholders, be held in trust by him in favour of shareholders who tendered the shares, and thereafter be held in trust in favour of the purchasing company till the time the shares are transferred in the CDC blocked account.

“Designated CDC Account” means the investor account opened with the central depository in the name of the manager to the purchase for the purpose of the purchase. Name of purchasing company shall be suffix to the title of such investor account;

Declaration of Solvency (Reg 16)

- All directors, chief executive officer and CFO of purchasing company shall make a declaration of solvency on non-judicial stamp paper, duly certified by Oath Commissioner, stating that "they have made full and detailed enquiry into the affairs of company and after having done so we are of the opinion that company is a going concern and is capable of meeting its liabilities on time for the period of twelve months from the date of this declaration and that the proposed Purchase will not prejudice the interest of any creditors " .
- Date of declaration of solvency shall be a date following the date of relevant board of director meeting.
- Where any director or officer refuses to make declaration of solvency, purchasing company shall inform in writing the SECP and its shareholders in the general meeting in which the Purchase is to be approved.

Power to give directions (Reg 17)

SECP may issue directions to purchasing company, any of its directors, officers, manager to the purchase or any other person, where SECP is satisfied (on its own motion or on the basis of any information received by it) that it is necessary and expedient so to do:

- in the interest of the shareholders of the purchasing company;
- in the interest of investors or the market generally; or
- to prevent the abuse of law or the process laid down in these regulations;

Directions may include:

- Stopping the purchasing company at any stage from making the purchase;
- To do or desist from doing such acts as the Commission may determine; and
- Carry out such steps as are necessary to rectify the situation.

SCHEDULE I

OFFER LETTER IN CASE OF PURCHASE THROUGH TENDER OFFER OR PURCHASE THROUGH SECURITIES EXCHANGE
(To be on the letterhead of the purchasing company and to be sent to all its members)

To: [Name and address of the member]

Subject:- Offer for buy-back of shares by ... (name of the purchasing company)....

Dear Sir/Madam,

1. Pursuant to the Public Announcement dated ... (date of the Public Announcement) ... (copy enclosed) by ... (name of the purchasing company) ... (hereinafter referred to as the Company) published in various daily newspapers on ... [name and date of the Newspapers in which the Public Announcement is published] this is to inform you that the Company intends to buy-back its own ... [number of shares] shares.

2. Therefore, the Company hereby makes you an offer to buy-back shares held by you at a purchase price of Rs. ... (Purchase Price approved by members of the purchasing company in general meeting)... per share. Please note that this offer for Purchase is valid till closing of the Purchase Period, i.e., (date of the close of the Purchase Period).

3. In case you are willing to sell the shares or part thereof held by you in the purchasing company, you may;
(a) (In case of Tender Offer) tender the same through the Share Tender Form supporting by the free-delivery note evidencing credit of shares in the Designated CDC Account to the Manager to the Purchase. The Share Tender Form shall contain details of shares to be tendered, CDS account number, full name of the shareholder, father's name/husband's name, CNIC number, folio number, signature, phone number and postal & email addresses.
(b) (In case of purchase through Securities Exchange) sell such shares or part thereof to the manager to the purchase through the securities exchange by placing a sale order through your securities broker.

4. The Manager to the Purchase shall acknowledge receipt of the shares.

5. Purchase shall be made in accordance with the provisions of section 95A of the Companies Ordinance, 1984 and the Listed Companies (Buy-back of Shares) Regulations, 2016.

6. In case of any query regarding this offer for buy-back of shares, you may contact the Company or the Manager to the Purchase at the following addresses:

[Name, phone & fax numbers and postal & e-mail addresses of the contact person of the purchasing company]

[Name, phone & fax numbers and postal & e-mail addresses of the contact person of the Manager to the Purchase]

7. The directors of the purchasing company accept full responsibility for the correctness of information contained in this Offer Letter.

Yours truly,

Date:

Place:

[Name, signature phone number and postal address of the secretary of the Purchasing company]

Schedule II

PUBLIC ANNOUNCEMENT FOR BUY BACK OF SHARES BY {NAME OF THE PURCHASING COMPANY}

To be published in the newspapers and to be dispatched to all the members of the purchasing company

1. The public announcement shall contain at least the following information:

- (a) Name and address of the registered office of the purchasing company;
- (b) purpose of the purchase;
- (c) quantum of the purchase both in terms of number and as a percentage of the paid up capital of the purchasing company;
- (d) date of commencement of the purchase i.e. effective date of the purchase;
- (e) duration of the purchase period: From ... (the date of commencement) to ... (the date of closing)... both days inclusive
- (f) in case the purchase is through tender offer:
 - (i) name, Designated CDC Account number, phone number, postal and email addresses of the Manger to the Purchase;
 - (ii) the mode and procedure of payment against the shares accepted for purchase;
 - (iii) price at which a share will be purchased.
- (g) in case the purchase is through the securities exchange;
 - (i) name of the securities exchange;
 - (ii) name, phone number, postal and email addresses of the Manger to the Purchase; and
 - (iii) the process of selling the shares by the shareholders;
- (h) name, contact number(s), postal & email address of the contact person(s) appointed by the Company to handle queries and complaints regarding the Purchase;
- (i) any other information the purchasing company or the Manager to the Purchase deems necessary to provide.

2. It is clarified that all those persons who validly hold shares of the purchasing company arc eligible to participate in the purchase even if their names do not appear on Members' register of the purchasing company.

Date:

Place:

Name, signature & address of the Secretary of the purchasing company

Schedule III

SHARES TENDER FORM

(Letter to be sent to the purchasing company by all those shareholders of the purchasing company who accepts the offer for Purchase and intend to sell shares in full or part thereof held by them in the purchasing company)

To,

The Chief Executive Officer,

... (full name of the Manager to the Purchase and address of its registered office)...

Subject:- Tendering of shares for sale to (name of the purchasing company)

Pursuant to Offer Letter dated ... (date of Offer Letter)... and the Public Announcement dated ...(date of the Public Announcement) published in the newspapers, I hereby tender... (No. of shares) shares held by me in ... (full name of the purchasing company)... for sale to ... (full name of the purchasing company) through you being the Manager to the Purchase.

Free-delivery note evidencing credit of shares in the Designated CDC Account is attached herewith in original. Detail of the transfer is as under:-

CDC Transaction ID	CDC sub-account		CDC Investor account No.	No. of shares
	Participant ID	Sub-account No		

I hereby undertake and affirm that I have read the contents of the Offer Letter and the Public Announcement.

Yours truly,

Date: [Full name, father's name/husband's name, CNIC number, folio number, signature, phone number and postal & email addresses of the shareholder]

SCHEUDLE IV

FINAL REPORT ON THE PURCHASE TO BE SUBMITTED TO THE COMMISSION AND THE SECURITIES EXCHANGE BY THE MANAGER TO THE PURCHASE

{To be on the letter head of the Manager to the Purchase}

To

- (1) The Director,
Securities and Exchange Commission of Pakistan,
Islamabad.
- (2) The Chief Executive,
The Pakistan Stock Exchange Limited,
Karachi.

As required under regulation 14(f) of the Companies (Buy-Back of Shares) Regulations, 2016, information on the Purchase by... {Name of the purchasing company} is as under,

- (i) date of the board of directors meeting in which the Purchase was decided;
- (ii) date of the general meeting of the members of the purchasing company in which special resolution regarding the Purchase was passed;
- (iii) date of publication of the Public Announcement;
- (iv) Purchase Period;
- (v) Purchase price;
- (vi) date of publication of the Public Announcement;
- (vii) date of dispatch of the Offer Letters;
- (viii) total number of shares tendered for sale;
- (ix) total number of shares accepted;
- (x) criteria/procedure adopted for acceptance of shares;
- (xi) number and date of return of unaccepted shares;
- (xii) amount, date and mode of payment against the shares accepted;
- (xiii) number of treasury shares; and
- (xiv) number of purchased shares cancelled, if any.

Yours truly,

Date:

Place:

[Name, signature phone number and postal address of the secretary of the Manager to the Purchase]

Schedule V

FINAL REPORT ON THE PURCHASE TO BE SUBMITTED TO THE COMMISSION AND THE SECURITIES EXCHANGE BY THE MANGER TO THE PURCHASE

{To be on the letter head of the Manger to the Purchase }

To

- (1) The Director,
Securities and Exchange Commission of Pakistan,
Islamabad.
- (2) The Chief Executive,
The Pakistan Stock Exchange Limited,
Karachi.

As required under regulation 14(f) of the Listed Companies (Buy-Back of Shares) Regulations, 201G, information on the Purchase of Shares by ...{Name of the purchasing company} is as under,

- (a) date of the board of directors meeting in which the Purchase was decided;
- (b) date of the general meeting of the members of the purchasing company in which special resolution regarding the purchase was passed;
- (c) date of publication of the public announcement;
- (d) total number of shares purchased;
- (e) date-wise and price-wise breakup of the purchase;
- (f) high, low and weighted average price of shares purchased;
- (g) total amount of cash paid for the Purchase;
- (h) number of Treasury Shares and their percentage to paid-up capital; and
- (i) in case of cancellation of any purchased shares, number of shares cancelled.

Yours truly,

Date:

Place:

[Name, signature phone number and postal address of the secretary of the Manger to the Purchase]