

PROPOSED AMENDMENTS IN NCCPL REGULATIONS

CHAPTER 28: Capital Gain Tax (“CGT”)

<u>Existing Regulations</u>	<u>Proposed Regulations</u>
And whereas, the Company made and notified the NCCPL Regulations pertaining to CGT System for computation, determination, collection of CGT, to all its Clearing Members;	And whereas, the Company made and notified the NCCPL Regulations pertaining to CGT System for computation, determination, collection of CGT, to all its Clearing Members, <u>Asset Management Companies and Pakistan Mercantile Exchange;</u>
And whereas, the Company, through its CGT System, shall compute and determine capital gain or loss, as the case may be, on market based and non-market based trades/transactions of listed securities.	And whereas, the Company, through its CGT System, shall compute and determine capital gain or loss, as the case may be, on market based and non-market based trades/transactions of listed securities <u>listed at Pakistan Stock Exchange, on redemption of units of open ended mutual funds and on trading of future commodity contracts at Pakistan Mercantile Exchange.</u>
28.1. Definitions Annexure means the Annexure of the Rules relating to Eighth Schedule of the Ordinance	Annexure means the Annexure of the Rules relating to Eighth Schedule of the Ordinance
Client means the client of the Clearing Member;	Client means the client of the Clearing Member, <u>Asset Management Companies and Pakistan Mercantile Exchange ;</u>
Foreign Institutional Investors means the foreign investor investing in the Stock Exchanges through international broker dealer/global custodians and whose incorporation/ registration number is issued by the relevant authority in the country of incorporation or the registration and has been	Foreign Institutional Investors means the foreign investor investing in the <u>Pakistan</u> Stock Exchanges through international broker dealer/global custodians and whose incorporation/ registration number is issued by the relevant authority in the country of incorporation or the registration

assigned a UIN by the Company.	and has been assigned a UIN by the Company.
Listed Securities means securities listed on Pakistan Stock Exchange and declared NCSS Eligible Securities by the Company;	Listed Securities means securities listed on Pakistan exchange and declared NCSS Eligible Securities by the Company;
Rules means the rules related to Special Procedures for Computation of Capital Gains and Collection of Tax under the Eight Schedule and other related matters as provided under the Income Tax Rules, 2002; and	Rules means the rules related to Special Procedures for Computation of Capital Gains and Collection of Tax under the Eight Schedule <u>of Income Tax Ordinance, 2001</u> and other related matters as provided under the Income Tax Rules, 2002; and
28.2.1. The Company shall compute, determine capital gains and loss on disposal of listed securities and collect tax thereon (if any), from the investor(s) or any person(s) involved in the investing activities in the listed securities on behalf of FBR, other than the following:- (a) persons or classes of persons as laid down in sub-section (2) of Section 100B of the Ordinance; (b) any eligible person/investor who opt-out irrevocably from the provisions relating to Capital Gain Tax in accordance with the Rule (5) of the Schedule and file an undertaking to the Company in the prescribed form to that effect.	28.2.1. The Company shall compute, determine capital gains and loss on disposal of listed securities and collect tax thereon (if any), from the investor(s) or any person(s) involved in the investing activities in the listed securities on behalf of FBR, other than the following:- (a) persons or classes of persons as laid down in sub-section (2) of Section 100B of the Ordinance; and (b) any eligible person/investor who opt-out irrevocably from the provisions relating to Capital Gain Tax in accordance with the Rule (5) of the <u>Eight</u> Schedule and file an undertaking to the Company in the prescribed form to that effect; <u>and</u> (c) <u>as provided in clause 47B of Part IV of 2nd Schedule to the Ordinance, on submission of Exemption Certificate from Commissioner Inland Revenue.</u>

<p>28.2.2 The capital gain tax computed, determined and collected in accordance with Regulations 28.2.1, shall be deposited by the company on behalf of Investor(s) in the manner prescribed in the schedule.</p>	<p>28.2.2 The capital gain tax computed, determined and collected in accordance with Regulations 28.2.1, shall be deposited by the company on behalf of Investor(s) in the manner prescribed in the schedule Rules.</p>
<p>28.3.1 For the performance of the functions entrusted to the Company by the FBR in terms of the Ordinance and the Rules made there under, the Company shall obtain requisite information from Stock Exchanges, CDC and from any other entity, as per the agreed transmission / communication mechanism, that may be required by the Company from time to time.</p>	<p>28.3.1 For the performance of the functions entrusted to the Company by the FBR in terms of the Ordinance and the Rules made there under, the Company shall obtain requisite information from Stock Exchanges, CDC, <u>Asset Management Companies</u> and from any other entity, as per the agreed transmission / communication mechanism, that may be required by the Company from time to time.</p>
<p>28.4. CGT Determination, Computation and Collection</p> <p>28.4.1 The Company, through its CGT System, shall compute and determine capital gain or loss, as the case may be, on trades/transactions of listed securities as reported to or provided to or extracted from the systems or procedures in place with the Company, Pakistan Stock Exchange and CDC. Accordingly, tax thereon shall be collected and deposited in accordance with the Ordinance and Rules made there under. The amount of tax on capital gains from Clearing Member's clients/investors shall be collected by the Company from or through the respective Clearing Members.</p>	<p>28.4. CGT Determination, Computation and Collection</p> <p>28.4.1 The Company, through its CGT System, shall compute and determine capital gain or loss, as the case may be, on trades/transactions of listed securities as reported to or provided to or extracted from the systems or procedures in place with the Company, Stock Exchanges, and CDC, <u>and Asset Management Companies</u>. Accordingly, tax thereon shall be collected and deposited in accordance with the Ordinance and Rules made there under. The amount of tax on capital gains from Clearing Member's, <u>Asset Management Companies' and Pakistan Mercantile Exchange'</u> clients/investors shall be collected by the Company from or through the respective Clearing Members, <u>Asset Management Companies and</u></p>

<p>28.4.2 For collection of tax on capital gains, the Company shall provide an exclusive set of collection information to respective Settling Banks of Clearing Members by 7th Settlement Date of each month through NCSS Pay & Collect for the amount of tax determined for previous month or months. Provided that such 7th Settlement Date shall be considered from the date of which the net CGT amount for previous month or months has been computed in CGT System and client/investor level reports of CGT have been made available to Clearing Members.</p>	<p style="text-align: center;"><u>Pakistan Mercantile Exchange.</u></p> <p>28.4.2 For collection of tax on capital gains, <u>arising on disposal of listed securities at Pakistan Stock Exchange</u> the Company shall provide an exclusive set of collection information to respective Settling Banks of Clearing Members by 7th Settlement Date of each month through NCSS Pay & Collect for the amount of tax determined for previous month or months. Provided that such 7th Settlement Date shall be considered from the date of which the net CGT amount for previous month or months has been computed in CGT System and client/investor level reports of CGT have been made available to Clearing Members.</p> <p style="text-align: center;"><u>Tax on capital gains arising on redemption of units of open ended mutual funds and on trading of future commodity contracts shall be deposited by Asset Management Companies and Pakistan Mercantile Exchange respectively, within 10 working days of the month end as per the Rules to NCCPL.</u></p>
<p>28.4.3 The Company shall provide necessary report or reports, from time to time, to Clearing Members so as to enable them to collect or withhold amount in advance from their clients.</p>	<p>28.4.3 The Company shall provide necessary report or reports, from time to time, to Clearing Members, <u>Asset Management Companies and Pakistan Mercantile Exchange,</u> so as to enable them to collect withhold amount in advance from their clients.</p>
<p>28.5. Clearing Member's Warranties and Indemnities</p>	<p>28.5. Clearing Member's, <u>Asset Management Companies' and Pakistan Mercantile Exchange's</u> Warranties and Indemnities</p>

<p>28.5.1. A Clearing Member supplying any information to the Company in pursuance of any obligation of the Clearing Member under these Regulations shall:</p> <p>(a) be deemed to have warranted to the Company that the information supplied is complete, true and correct and nothing has been cancelled or omitted which will make such information inaccurate, incorrect or misleading; and</p> <p>(b) indemnify the Company from all types of losses, damages, costs or expenses (if any) suffered or incurred by the Company as a result of any inaccuracy, mistakes, contained in or omission from the information supplied by the Clearing Member or such information being misleading.</p>	<p>28.5.1. A Clearing Member, <u>asset management company, Pakistan Mercantile Exchange</u> supplying any information to the Company in pursuance of any obligation of the Clearing Member, <u>asset management company, Pakistan Mercantile Exchange</u> under these Regulations shall:</p> <p>(a) be deemed to have warranted to the Company that the information supplied is complete, true and correct and nothing has been cancelled or omitted which will make such information inaccurate, incorrect or misleading; and</p> <p>(b) indemnify the Company from all types of losses, damages, costs or expenses (if any) suffered or incurred by the Company as a result of any inaccuracy, mistakes, contained in or omission from the information supplied by the Clearing Member, <u>asset management company, Pakistan Mercantile Exchange</u> or such information being misleading.</p>
<p>28.7.2 The only obligation of the Company with regard to the computation, determination collection and deposit of CGT shall be to facilitate the Clearing Member in the computation and determination of CGT based on the trades and transactions executed between the Clearing Members for their own or on behalf of their clients, as the case may be, on the trading systems or NCC Systems or in CDS in accordance with the relevant regulations and procedures. Each Clearing Member acknowledges and confirms that the Company shall not be responsible for:</p>	<p>28.7.2 The only obligation of the Company with regard to the computation, determination collection and deposit of CGT shall be to facilitate the Clearing Member, <u>Asset Management Companies and Pakistan Mercantile Exchange</u>, in the computation and determination of CGT based on the trades and transactions executed between the Clearing Members, <u>Asset Management Companies and Pakistan Mercantile Exchange</u> for their own or on behalf of their clients, as the case may be, on the trading systems or NCC Systems or in CDS <u>or in systems of Asset Management</u></p>

<p>(a) the title, ownership, genuineness, regularity or validity of any security or any other documents or instrument transmitted/communicated through the NCC System;</p> <p>(b) the execution, genuineness, validity, enforceability or sufficiency of any agreement or any other document relating thereto;</p> <p>(c) the collectability and recovery of amounts from Clearing Member's clients/investors payable in respect of CGT;</p> <p>(d) the financial condition of any Clearing Member and its client;</p> <p>(e) the performance and observance by Clearing Member of their obligations under the Ordinance and the Rules made there under ; or</p> <p>(f) the accuracy of any statements</p>	<p><u>Companies or in systems of Pakistan Mercantile Exchange</u> in accordance with the relevant regulations and procedures. Each Clearing Member, <u>Asset Management Companies and Pakistan Mercantile Exchange</u> acknowledges and confirms that the Company shall not be responsible for:</p> <p>(a) the title, ownership, genuineness, regularity or validity of any security or any other documents or instrument transmitted/communicated through the NCC System;</p> <p>(b) the execution, genuineness, validity, enforceability or sufficiency of any agreement or any other document relating thereto;</p> <p>(c) the collectability and recovery of amounts from Clearing Member's, <u>Asset Management Company's, Pakistan Mercantile Exchange's</u> clients/investors payable in respect of CGT;</p> <p>(d) the financial condition of any Clearing Member, <u>Asset Management Company, Pakistan Mercantile Exchange</u> and its client;</p> <p>(e) the performance and observance by Clearing Member, <u>Asset Management Companies and Pakistan Mercantile Exchange</u> of their obligations under the Ordinance and the Rules made there under; or</p> <p>(f) the accuracy of any statements (whether written or oral) made by or</p>
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<p>(whether written or oral) made by or transmitted/communicated by a Clearing Member in connection with any agreement or documents in respect of computation, determination, collection of CGT of any of their clients/investors.</p>	<p>transmitted/communicated by a Clearing Member, <u>Asset Management Company or Pakistan Mercantile Exchange</u> in connection with any agreement or documents in respect of computation, determination, collection of CGT of any of their clients/investors.</p>
<p>28.8 Liability of the Clearing Members</p> <p>28.8.1 Each Clearing Member confirms to the Company that it has made its own independent investigation and assessment of the financial condition and affairs of the concerned client/investor in connection with its obligation of payment of due CGT and has not relied on any information provided to it by the Company in connection with CGT;</p> <p>28.8.2 A Clearing Member shall not close the client code(s) created under the Unique Identification Number until and unless a clearance certificate issued by the Company for closer of such client(s) code.</p>	<p>28.8 Liability of the Clearing Members, <u>Asset Management Companies and Pakistan Mercantile Exchange</u></p> <p>28.8.1 Each Clearing Member, <u>Asset Management Companies and Pakistan Mercantile Exchange</u> confirms to the Company that it has made its own independent investigation and assessment of the financial condition and affairs of the concerned client/investor in connection with its obligation of payment of due CGT and has not relied on any information provided to it by the Company in connection with CGT;</p> <p>28.8.2 A Clearing Member, <u>Asset Management Company and Pakistan Mercantile Exchange</u> shall not close the client code(s) created under the Unique Identification Number until and unless a clearance certificate issued by the Company for closer of such client(s) code.</p>
<p>New Regulations</p>	<p><u>28.8.5 In case of closure of accounts of units holders of open ended mutual funds by Asset Management Companies and account of member of PMEX by PMEX, without obtaining clearance certificate from NCCPL, Asset Management Company or PMEX shall remain responsible to ensure that any outstanding liability in</u></p>

	<p><u>respect of Capital Gain Tax which has arisen or may arise, has been collected from respective investor and deposited with NCCPL.</u></p>
	<p>Transaction Costs</p> <p>28.9.1 All Clearing Members, <u>Asset Management Companies and Pakistan Mercantile Exchange</u> shall pay prevailing costs to the Company in accordance with Fees, Charges and Security Deposit Schedule in respect of services provided for computation, determination, collection and deposit of CGT by the Company in the manner prescribed by the FBR from time to time.</p> <p>28.10 Actions in the Event of Non or Short payment of CGT by the Clearing Member, <u>Asset Management Company, Pakistan Mercantile Exchange</u> to the Company</p>
28.12.1 Certificate showing computation/determination of capital gains or loss and CGT thereon, if any, and payment thereof to each client/investor through Clearing Member within thirty days from the end of the financial year.	28.12.1 Certificate showing computation/determination of capital gains or loss and CGT thereon, if any, and payment thereof to each client/investor through Clearing Member, <u>Asset Management Company or Pakistan Mercantile Exchange</u> within thirty days from the end of the financial year.
<p>28.13 Audit of CGT System, Procedures and Implementation of recommendations.</p> <p>28.13.1 Under clause 6 of Eight Schedule, PRAL or any authority or any person appointed by the FBR shall conduct regular system and procedural audits of the Company related to computation/determination of Capital Gains or Loss on disposal of listed securities, collection and deposit of tax thereon on quarterly basis to verify the implementation of the provisions relating to Capital Gain Tax under the</p>	<p>28.13 Audit of CGT System, Procedures and Implementation of recommendations.</p> <p>28.13.1 Under clause 6 of Eight Schedule <u>of the Ordinance</u>, PRAL or any authority or any person appointed by the FBR shall conduct regular system and procedural audits of the Company related to computation/determination of Capital Gains or Loss on disposal of listed securities, collection and deposit of tax thereon on quarterly basis to verify the implementation of the provisions relating to Capital Gain</p>

Ordinance and Rules made there-under and suggest recommendations, if any in this regards.	Tax under the Ordinance and Rules made there-under and suggest recommendations, if any in this regards.
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