



UNODC

United Nations Office on Drugs and Crime

Country Review Report of Pakistan

Review by Kenya and Qatar of the implementation by Pakistan of articles 5-14 and 51-59 of the United Nations Convention against Corruption for the review cycle 2016-2021

I. Introduction

1. The Conference of the States Parties to the United Nations Convention against Corruption was established pursuant to article 63 of the Convention to, inter alia, promote and review the implementation of the Convention.
2. In accordance with article 63, paragraph 7, of the Convention, the Conference established at its third session, held in Doha from 9 to 13 November 2009, the Mechanism for the Review of Implementation of the Convention. The Mechanism was established also pursuant to article 4, paragraph 1, of the Convention, which states that States parties shall carry out their obligations under the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and of non-intervention in the domestic affairs of other States.
3. The Review Mechanism is an intergovernmental process whose overall goal is to assist States parties in implementing the Convention.
4. The review process is based on the terms of reference of the Review Mechanism.

II. Process

5. The following review of the implementation by the Islamic Republic of Pakistan (Pakistan) of the Convention is based on the completed response to the comprehensive self-assessment checklist received from Pakistan, and the supplementary information provided in accordance with paragraph 27 of the terms of reference of the Review Mechanism and the outcome of the constructive dialogue between the governmental experts from Kenya and Qatar, by means of telephone conferences, videoconferences, and e-mail exchanges and involving: From Kenya: Ms. Caroline Karimi Nyaga and Mr. Wesley Kipnetich; and from Qatar: Ms. Amal Al-Kuwari, Mr. Jassim Al-Derhem, Mr. Ali Al-Kubaisi, Ms. Jafra Al-Mudahka, and Ms. Maryam Al-Maraghi. The members of the Secretariat were: Ms. Livia Krings and Mr. Badr El Banna.
6. A country visit, agreed to by Pakistan, was conducted in Islamabad from 1 to 3 June 2022.

III. Executive summary

7. 1. Introduction: overview of the legal and institutional framework of Pakistan in the context of implementation of the United Nations Convention against Corruption

Pakistan signed the United Nations Convention against Corruption on 9 December 2003 and ratified it on 31 August 2007.

The implementation by Pakistan of chapters III and IV of the Convention was reviewed in the third year of the first review cycle, and the executive summary of that review was published on 4 August 2017 (CAC/COSP/IRG/I/3/1/Add.32).

Treaties are not self-executing in Pakistan but are incorporated into the domestic legal framework.

The national legal framework for preventing and countering corruption includes provisions of the Constitution of Pakistan of 1973 and a number of legal instruments, notably the Prevention of

Corruption Act (1947), the National Accountability Ordinance (1999), the Federal Public Service Commission Ordinance (1977), the Public Procurement Regulatory Authority Ordinance (2002), the Pakistan Penal Code (1860), the Code of Criminal Procedure (1898), the Federal Investigation Agency Act (1974), the Anti-Money-Laundering Act (2010), the Civil Servants Act (1973), the Right to Information Act (2017), the Companies Act (2017), the Mutual Legal Assistance (Criminal Matters) Act (2020), the Ombudsman Institutions (Establishment of Wafaq Mohtasib) Order (1983), the Prevention of Electronic Crimes Act (2016), the Electronic Transactions Ordinance (2002), the Investigation for Fair Trial Act (2013), the Payment Systems and Electronic Fund Transfers Act (2007), the Exit from Pakistan (Control) Ordinance (1981) and the Public Interest Disclosures Act (2017). The country is also a party to a number of international agreements on international cooperation, crime control and crime prevention.

Pakistan has a number of bodies and agencies concerned with preventing and combating corruption and with asset recovery, including the National Accountability Bureau (NAB), the Establishment Division (Regulation Wing) under the Office of the Prime Minister, the Federal Board of Revenue, the Federal Investigation Agency, the Federal Public Service Commission and provincial public service commissions, the Election Commission of Pakistan, the Controller General of Accounts, the Public Procurement Regulatory Authority, provincial anti-corruption establishments, federal and provincial ombudsmen, the Auditor General of Pakistan, the State Bank of Pakistan, the Securities and Exchange Commission of Pakistan (SECP) and the Financial Monitoring Unit.

The authorities of Pakistan cooperate at the international level through various mechanisms and networks, including the International Association of Anti-Corruption Authorities, the Asia/Pacific Group on Money Laundering, the Asset Recovery Inter-Agency Network for Asia and the Pacific (ARIN-AP), the Asset Recovery Inter-Agency Network in West and Central Asia (ARIN-WCA), the Global Operational Network of Anti-Corruption Law Enforcement Authorities and the International Criminal Police Organization (INTERPOL).

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

In 2002, Pakistan adopted a national anti-corruption strategy with no defined time frame, focusing on the following pillars for national integrity: the legislature, the judiciary, the executive, public accountability bodies, anti-corruption agencies, the media, civil society and the private sector. The strategy is in the process of being reviewed and updated, but there is no national review, monitoring and reporting mechanism related to its implementation.

NAB is the main national preventive anti-corruption body. All agencies and institutions at all levels are required to cooperate with it for the efficient implementation of the national anti-corruption strategy and associated action plan. The prevention methodology of NAB is mandated by the National Accountability Ordinance, which, inter alia, provides for the establishment of an awareness and prevention division and of prevention committees, focusing on specific topics and comprising NAB officers and individuals from relevant government agencies and organizations from the private and public sectors, as well as from civil society, as appropriate.

NAB implements a wide range of prevention activities at the federal and provincial levels through broadcast, print and social media. Those activities include organizing awareness-raising

campaigns, establishing character-building societies in the education system; holding competitions, and organizing study tours and lectures.

Section 6 of the Law and Justice Commission of Pakistan Ordinance (1979) establishes a mechanism to periodically review relevant legal instruments and administrative measures against corruption, which are evaluated on an as-needed basis at the initiative of the Chair of NAB and heads of other bodies with a mandate to prevent corruption. The Cabinet Committee for Disposal of Legislative Cases reviews existing laws and associated legislation and is also mandated to take necessary actions and propose appropriate action on all issues relating to corruption.

Pursuant to the National Accountability Ordinance (sect. 6 (b)), the Chair of NAB is appointed by the President, in consultation with the leader of the House and the leader of the Opposition in the National Assembly, for a non-extendable period of four years on terms and conditions determined by the President. The Chair submits an annual report on the activities of NAB to the President. Pursuant to the Constitution (art. 209), the Chair cannot be removed except on the same grounds as those applicable to the removal of a judge of the Supreme Court. The President, in consultation with the Chair of NAB, may appoint any person who is qualified to be appointed as a judge of the Supreme Court as the Prosecutor-General for Accountability at NAB, and the removal procedure for the post is the same as that for the Chair.

Other bodies with a mandate to prevent corruption include the Establishment Division (Regulation Wing) under the Office of the Prime Minister, the Federal Board of Revenue, the Federal Investigation Agency, the Federal Public Service Commission and provincial public service commissions, the Election Commission of Pakistan, the Controller General of Accounts, the Public Procurement Regulatory Authority, provincial anti-corruption establishments, federal and provincial ombudsmen and the Auditor General of Pakistan.

The degree of independence afforded to other government entities involved in the prevention of corruption in relation to exercising their mandates and the appointment and removal procedures for the head of each entity varies, with the President having the power to appoint and remove the heads of certain entities but not others. Although mandatory specialized training is provided, these government entities and NAB could benefit from more human and material resources in order to ensure that they are able to carry out their functions adequately.

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

The structure of the civil service is established under article 240 (a) of the Constitution. Articles 18, 27, 34 and 36 of the Constitution are part of the Principles of Policy, which provide an overall framework for various government institutions to follow in the context of their respective mandates. Similarly, functions of the Federal Public Service Commission are set out in section 7 of the Federal Public Service Commission Ordinance, according to which the Commission is the highest constitutional body for recruitment within the Government in the categories “basic pay scale 16” and above.

The civil service was established by the Constitution, and the Federal Public Service Commission, the statutory body responsible for the recruitment of civil servants, functions in accordance with articles 18, 25, 27, 34, 36 and 38 of the Constitution and section 7 of the Federal Public Service Commission Ordinance.

The Central Superior Service is a permanent structure responsible for government operations. Civil servants are recruited through a competitive examination held every year, conducted and

supervised by the Federal Public Service Commission, and vacancies are publicly announced and published.

The Establishment Division (Regulation Wing) under the Office of the Prime Minister is responsible for managing the human resources of the Government. Under its rules of business (1973), amended in 2021, the Division regulates all matters related to civil service posts, including recruitment, promotion, verification of character and antecedents, conduct and discipline, and terms and conditions of service. The Division defines the occupational groups, manages general service matters and matters relating to selection boards for different categories of post, and determines the status of government offices. It also proposes and carries out the transfer and posting of, and is responsible for services for, officers belonging to the administrative service, police, secretariat and office management occupational groups. The recruitment and appointment process for any given position within the civil service depends on the basic pay scale for that position, and NAB has its own recruitment system.

There are rules pertaining to the selection, training and rotation, where appropriate, of special categories of public official (senior management positions) and positions considered especially vulnerable to corruption. Integrity checks are conducted when candidates are shortlisted for a post. Pakistan has a comprehensive system of pre- and in-service training for civil servants.

The permanent Election Commission of Pakistan was established under article 218 of the Constitution for elections to both houses of the Parliament and to provincial assemblies, local governments and cantonments. Criteria concerning candidature for and election to the National Assembly, the Senate and provincial assemblies are regulated in the Constitution. A candidate who does not fulfil the qualifications for public office as stipulated in the Constitution may be disqualified by a competent forum pursuant to the Constitution (arts. 62 and 63). Persons who have been convicted of any offence under the Elections Act (2017) or found guilty of any corrupt or illegal practice are subject to disqualification.

The funding of candidatures for elected public office and political parties is regulated in the Elections Act and by election rules prepared by the Election Commission of Pakistan, with notices issued in case of non-compliance. The Elections Act regulates the duties of political parties concerning, inter alia, accounting and bookkeeping. Political parties are required to restrict election expenses and to provide the Election Commission of Pakistan with a list of contributors who have donated an amount equal to or more than 100,000 Pakistan rupees (approximately \$450) to the political party, and only natural persons may contribute such an amount. Section 211 of the Election Act provides that all financial reports submitted by candidates are open to inspection by any person for a fee. Although anonymous donations of more than 100,000 Pakistan rupees are explicitly prohibited pursuant to section 211 of the Elections Act, the authorities confirmed that in practice this extends to all fees, contributions or donations made by a member or a supporter of a political party, which should be duly recorded by that political party according to section 204 of the same Act. The Act provides for penalties, including for corrupt practices, bribery and undue influence in connection with elections. It also provides for the auditing of the annual accounts of each political party by a chartered accountant, who authenticates the prescribed consolidated statement of accounts for that party for the financial year and provides a professional opinion on the accounts. The Election Commission of Pakistan scrutinizes each consolidated statement of accounts and publishes it in the official gazette. Political parties that do not comply with the accounting and bookkeeping requirements are not eligible to obtain an election symbol for contesting elections for Majlis-e-Shoora (the Parliament), provincial assemblies or local government (sect. 15 of the Elections Act).

Pakistan has adopted a framework for the management of conflicts of interest of civil servants, provided for under the Civil Servants Act (1973), the Government Servants (Conduct) Rules

(1964) and the Government Servants (Efficiency and Discipline) Rules (1973, amended in 2020). The Government Servants (Conduct) Rules allow for the management of private companies and banks, as well as private trade or employment, by civil servants with the prior permission of the Government. The framework is honour-based, with responsibility for the reporting of conflicts of interest resting with the individual and the possibility for any other individual who identifies a conflict to file a complaint. The framework provides for disciplinary measures, which can be applied to all those serving in a civil capacity in connection with the affairs of the Government and the All-Pakistan Service during their employment within provincial governments. Rule 15 of the Government Servants (Conduct) Rules prescribes that “no Government servant shall, except with the previous sanction of the Government, take part in the promotion, registration or management of any bank or company”.

The obligation for all civil servants to declare gifts, interests and assets is established in the Government Servants (Conduct) Rules. The declarations must be updated for every financial year, which ends on 30 June. Members of the Parliament file their declarations with the Election Commission of Pakistan, whereas civil servants employed within the administrative service, police, secretariat or office management groups file declarations with the Establishment Division. All other civil servants submit declarations within their own departments. Sanctions are in place for violations of the declaration regime, which is trust-based. There is no centralized oversight authority or verification system.

Codes of conduct for all employees of Government entities are regulated by the Government Servant (Conduct) Rules. In cases of misconduct, disciplinary action is taken in accordance with the provisions of the Civil Servants (Efficiency and Discipline) Rules.

NAB has its own code of conduct. The Establishment Division has overall oversight and monitoring responsibility for the application of the above-mentioned acts, rules and codes of conduct. Relevant integrity training is provided for all federal and provincial civil servants.

The framework for the reporting by public officials of acts of corruption is provided for in the Whistle-blower Protection and Vigilance Commission Act (2019) and the Witness Protection, Security and Benefit Act (2017) at the national level, as well as in various legislation at the provincial level. NAB is able to receive complaints through various channels and has an inspection and monitoring team in place. Acts of corruption can also be reported to the Controller General of Accounts, the Auditor General of Pakistan, the Federal Investigation Agency and the provincial anti-corruption establishments. Civil servants receive a letter every year reminding them of their obligation to report acts of corruption in the workplace.

The procedures for the appointment and transfer of judges to the Supreme Court, high courts for each province and the Federal Shariat Court are defined in the Constitution. Vacant judicial positions for lower courts are publicly announced and advertised. The Judicial Commission appoints judges to the Supreme Court, high courts and the Federal Shariat Court. The President appoints the Chief Justice of Pakistan, who chairs the Judicial Commission. The Commission has different types of membership for the various categories of judge and it nominates, by majority, one person for each vacancy in the aforementioned courts. All judges of the Supreme Court are nominated by the President and the composition of the High Court is also determined by the President, who may also transfer high court judges, after consultation with the Chief Justice of Pakistan and the chief justices of the high courts. As outlined in the Supreme Judicial Council Procedure of Inquiry (2005), the Council is mandated to conduct inquiries into the capacity or conduct of judges of the Supreme Court and high courts; if the Council or the President is of the opinion that a judge should be removed from office on the basis of article 209 (6) of the Constitution, the President may remove that judge from office. Allegations of incapacity or misconduct, including acts of corruption, may serve as grounds for removal. This procedure also

provides for sanctions for “frivolous” complaints. Pakistan has established special anti-corruption courts, with the President appointing judges for those courts for a tenure of three years. Under article 209 of the Constitution, the Supreme Judicial Council and an inspection team at the level of the high courts may conduct disciplinary actions against judges accused of misconduct. The Supreme Judicial Council Code of Conduct (2009) is observed by Supreme Court and high court judges. A code of conduct of 2008 is observed by members of the subordinate judiciary. There is a trust-based system for the declaration of conflicts of interest, with judges expected to recuse themselves when such conflicts arise. Judges are also subject to asset declaration requirements.

The Prosecution Service is governed by the prosecution laws of the relevant provinces, and, at the national level, prosecutors are appointed under the National Accountability Ordinance, Anti-Money-Laundering Act, the Custom Act (1969) and the Federal Investigation Agency Act. The selection and recruitment of prosecutors are conducted by the Public Service Commission, whose Chair heads the committee for the appointment of prosecutors. The removal procedure for prosecutors is the same as that for civil servants. All provinces have their own codes of conduct for the prosecution service, governed under acts of the respective provincial parliaments. The officers employed in the prosecution service are also bound by the efficiency and discipline rules of the respective provincial government. The prosecutors-general of the provinces, who also oversee prosecutions before the anti-corruption courts, are appointed by chief ministers and the respective governments and may be dismissed at will.

Public procurement and management of public finances (art. 9)

The Public Procurement Regulatory Authority is an autonomous body mandated to take measures to improve the governance, management, transparency, accountability and quality of public procurement. In addition to fulfilling all the substantive and procedural requirements of the procurement regulatory framework, the procuring agencies are obliged to publish all tender notices with a value in excess of 3 million Pakistan rupees on the Public Procurement Regulatory Authority website, as well as in print media. The procuring agencies are also required to make public all documents related to the evaluation of the bid for and award of contracts, in accordance with rule 47 of the Public Procurement Rules (2004).

The Authority is currently in the final stages of developing a web-based e-procurement system called the “e-Pak acquisition and disposal system” (EPADS), which will fully automate the public procurement process in Pakistan.

The Auditor General of Pakistan reviews procurement contracts when auditing expenditures of public funds. Moreover, the National Accountability Ordinance requires all ministries, divisions and departments of the Government and of provincial and local governments, as well as statutory corporations or authorities and holders of public office, to provide NAB with copies of all public contracts valued at 50 million Pakistan rupees or more. The procurement rules are currently being revised. Complaints can be filed with the agency that initiated the procurement. The rules provide only for a system of administrative review of complaints by the Principal Accounting Officer, whose findings are communicated to the Public Procurement Regulatory Authority prior to the award of the contract, with the information being published when contracts are awarded. The training programme for procurement personnel might be improved. Public procurement personnel are required to file asset declarations but are not required to file declarations of conflicts of interest, and they do not undergo screening procedures.

Pursuant to the Constitution, the annual budget statement, containing the estimated receipts and expenditure of the Government, is prepared and presented by the Government to the National

Assembly (lower house) every year. The Department of the Auditor General of Pakistan conducts audits of all public expenditure and revenue, in line with the relevant international standards. Off-budget expenditures are permitted, with revised budgetary statements presented to the National Assembly for approval. All government entities are required to submit their reports to the Ministry of Finance, with the Federal Board of Revenue publishing yearly revenue and expenditure reports. The Internal Control Department of the Federal Board of Revenue oversees a system of risk management and control, and there are sanctions for lack of compliance.

The Accounting Policies and Procedures Manual (2001) provides the framework for department requirements and standards, and for storing and preserving the integrity of accounting books. Pakistan is currently digitalizing all its records.

Public reporting; participation of society (arts. 10 and 13)

The right to information is enshrined in the Constitution. Access to information is regulated through the Right to Information Act at the federal level and other legislation at the provincial level.

The country has established the Pakistan Information Commission. Requests for information can be filed directly through the public information officers or designated officials of each public body. The right to information may be restricted on the basis of national security, defence or diplomatic grounds; appeals may be filed to the Commission.

Civil society is involved in the policymaking and legislative processes to a certain degree, mainly through the prevention committees.

Each government agency makes available on its website all the information that it is mandated to provide, and many government services can be accessed online.

Although no dedicated public surveys or corruption risk assessments have been conducted, the threat of corruption as a predicate crime to money-laundering was assessed in 2019 in the context of the national risk assessment for money-laundering and terrorism financing.

Suspected corruption offences may be reported to NAB, the Federal Investigation Agency and, at the provincial level, to the anti-corruption establishments.

Private sector (art. 12)

The Companies Act provides the regulatory framework and auditing standards for the corporate sector. The Act also contains provisions aimed at minimizing conflicts of interests arising from the acts of companies or their directors or officers, and prescribes civil, administrative and criminal penalties for non-compliance.

In addition, SECP has issued the Listed Companies (Code of Corporate Governance) Regulations (2017) and Public Sector Companies (Corporate Governance) Rules (2013), which endorse various measures for preventing conflicts of interest, developing codes of conduct, developing and implementing an anti-corruption policy, and ensuring professional standards and corporate values are in place that promote values such as integrity. SECP has supervisory powers in terms of the implementation of the policy.

The Companies (Amendment) Act (2020) and the Limited Liability Partnership Amendment Act (2020) were enacted to introduce requirements for all companies under section 123A of the Companies Act and limited liability partnerships under section 8 (2) of the Limited Liability Partnership Act (2017) to obtain, maintain and provide timely updates of the particulars of the

ultimate beneficial owner (including any change thereto) and to submit an annual declaration of compliance in this regard to SECP.

Furthermore, the Companies Act prohibits the issuance of bearer shares or bearer share warrants. Moreover, the Companies (Amendment) Act requires that all existing bearer shares or bearer share warrants be cancelled or registered.

Reporting entities (securities brokers, commodities brokers, insurers, takaful operators, non-bank financial institutions and modarabas) regulated by SECP under its anti-money-laundering and countering the financing of terrorism regulations (2020), read in conjunction with the Anti-Money-Laundering Act, are required to obtain beneficial ownership information from natural and legal persons before entering into a business relationship. Companies are now also required to hold a register of their ultimate beneficial owners, to record and update any changes in the register in a timely manner, and to provide such information to the registrar. There is an automated system for submitting information on the registration and ownership of companies and SECP has established a supervision and enforcement mechanism in this regard.

SECP has established centralized supervision and adjudication divisions that ensure the implementation of effective enforcement supervisory sanctions. The enforcement and sanctions provisions of the Companies Act and the Limited Liability Partnership Act, together with the enabling regulations, ensure effective enforcement of the ultimate beneficial owner framework by introducing penalties for non-compliance for both entities and for individual directors.

Entities regulated by the State Bank of Pakistan are subject to restrictions applicable to any person linked to criminal activities or affiliated with a terrorist organization.

Accounting and financial reporting standards are regulated in the Companies Act and the Accounting and Financial Reporting Standards for Small-sized Entities. SECP has delegated responsibility for developing, adopting and issuing accounting standards to the Institute of Chartered Accountants of Pakistan. The accounts of private sector entities are audited by chartered accountants, who issue reports to the shareholders on the compliance status of companies, in line with the applicable accounting framework and the relevant provisions of the Companies Act.

SECP actively engages with law enforcement agencies and refers matters for investigation or inquiry to law enforcement agencies, including NAB. There is also cooperation between private sector entities and law enforcement agencies.

Post-employment restrictions that apply to all public officials, except under special circumstances, are defined in the Companies Act.

Pakistan specifically disallows the tax deductibility of expenses that constitute bribes, in accordance with section 21 (g) of the Income Tax Ordinance (2001).

Measures to prevent money-laundering (art. 14)

The country's legal regime against money-laundering consists principally of the Anti-Money-Laundering Act, the Anti-Money-Laundering and Countering the Financing of Terrorism Sanctions Rules (2020), as well as regulations and guidelines issued by the various supervisory authorities.

To comply with anti-money-laundering requirements, all financial institutions and designated non-financial businesses and professions must have in place internal anti-money-laundering systems that include customer and beneficial owner identification; ongoing monitoring of transactions; application of enhanced due diligence to high-risk customers, accounts and

transactions; and record-keeping and reporting of suspicious transactions (see the section on article 52 of the Convention, below).

The cross-border declaration system of Pakistan combines obligations under the Customs Act (1969) and the Foreign Exchange Regulation Act (1947). Pakistan has adopted a written declaration system for persons entering the country with cash and bearer negotiable instruments with a value that equals or exceeds \$10,000 or its equivalent in another currency (notification F.E.1/2012-SB (the currency declaration form prescribed under the Foreign Exchange Regulation Act)). Persons carrying more than \$10,000 or the equivalent out of Pakistan must first seek permission to do so from the State Bank of Pakistan (notification F.E.2/98-SB).

The Customs Act establishes a graded penalty regime for false declarations and failure to declare, with penalties ranging from administrative fines to criminal penalties, including seizure and confiscation of falsely declared or undeclared cash (sects. 139 and 156 (1)).

Regulation 3 of the anti-money-laundering and countering the financing of terrorism regulations of the State Bank of Pakistan (2020) establishes adequate wire transfer rules, including requiring banks and development finance institutions to ensure that necessary and accurate originator and beneficiary information is included when initiating, forwarding or receiving a wire transfer and to retain records. The regulation also prohibits banks and development finance institutions from pursuing electronic fund transfer transactions where the information provided does not meet the requirements (sect. 6 (6)).

The anti-money-laundering supervisory regime for designated non-financial businesses and professions is relatively new. The Anti-Money-Laundering Act designates anti-money-laundering regulatory authorities for financial institutions and designated non-financial businesses and professions, and provides them with the necessary powers and functions to monitor compliance (sect. 6A and schedule IV of the Anti-Money-Laundering Act). Those regulatory authorities include the State Bank of Pakistan, SECP, the Federal Board of Revenue, the Institute of Chartered Accountants, the Institute of Cost and Management Accountants and the Pakistan Bar Council, as well as the Directorate General of Designated Non-financial Businesses and Professions at the Federal Board of Revenue. An interactive designated non-financial business and profession management system linked to an application for mobile phones allows for registration, cross-matching with proscribed persons, submission of the off-site monitoring questionnaire and generation of suspicious transaction reports. On-site inspections are conducted and sanctions imposed for non-compliance.

Pakistan completed its first national risk assessment for money-laundering and terrorism financing in 2017, identifying corruption among the high-risk and high-threat predicate crimes. In September 2019, the country issued a new national risk assessment, which will be updated every two years. Pakistan is currently reviewing the risk assessment of 2019, with the review due to be finalized in 2023.

The Financial Monitoring Unit was established in 2007 under section 6 of the Anti-Money-Laundering Ordinance (2007) (now the Anti-Money-Laundering Act). The Unit, law enforcement and supervisory and regulatory authorities cooperate and exchange information at both the domestic and international levels, and have information exchange arrangements such as memorandums of understanding and letters of intent.

Pakistan has taken measures, including amendments to the Anti-Money-Laundering Act, to address many of the shortcomings identified in the mutual evaluation report published by the Asia/Pacific Group on Money Laundering in 2019, including those related to preventive measures and supervision.

The country actively contributes to the development and strengthening of regional and international cooperation in the fight against money-laundering, in particular through its participation in the Asia/Pacific Group on Money Laundering, the Asset Recovery Inter-Agency Network for Asia and the Pacific (ARIN-AP) and the Asset Recovery Inter-Agency Network in West and Central Asia (ARIN-WCA).

2.2. Successes and good practices

- *Pakistan has established special anti-corruption courts and accountability courts at the provincial level (art. 11).*
- *Pakistan actively contributes to the development and strengthening of regional and international cooperation in the fight against money-laundering, in particular through its participation in the Asia/Pacific Group on Money Laundering, the Asset Recovery Inter-Agency Network for Asia and the Pacific (ARIN-AP) and the Asset Recovery Inter-Agency Network in West and Central Asia (ARIN-WCA) (art. 14).*

2.3. Challenges in implementation

It is recommended that Pakistan:

- *Establish a monitoring and reporting mechanism on the implementation of the national anti-corruption strategy and other relevant policies (art. 5, para. 1).*
- *Ensure the necessary independence of NAB and other bodies with anti-corruption mandates, including by reviewing the appointment and removal procedures for their heads and other relevant high-level officials (art. 6, para. 2).*
- *Ensure that NAB and other bodies with preventive anti-corruption mandates have adequate and sufficient resources to carry out their functions (art. 6, para. 2).*
- *Endeavour to identify public positions considered especially vulnerable to corruption and to adopt procedures for the selection, training and rotation, where appropriate, of individuals for such positions (art. 7, para. 1 (b)).*
- *Consider strengthening the system for the identification and management of conflicts of interest (art. 7, para. 4).*
- *Consider establishing a verification system for the declaration of relevant interests by civil servants and members of the judiciary and prosecution service (art. 8, para. 5, and art. 11).*
- *Review the public procurement framework to provide for a more comprehensive legal framework and for an effective system of appeal; strengthen the implementation of public procurement legislation and rules, including by providing the Public Procurement Regulatory Authority and NAB with adequate and sufficient resources to carry out their functions in that regard and by taking measures to regulate matters regarding personnel involved in procurement, such as the establishment of a system for the declaration of conflicts of interest, the introduction of screening procedures and the provision of training (art. 9, para. 1).*
- *Consider developing guidelines for ministries and other government bodies on the effective implementation of the right to information and on facilitating timely access to information for the public (art. 10 (a)).*
- *Consider conducting and publishing dedicated and periodic assessments of the risks of corruption in public administration (art. 10 (c)).*

- *Take measures to enhance the independence of members of the judiciary and the prosecution service, including by reviewing the selection and removal procedures for high-level and key positions (art. 11).*
- *Enhance the transparency of and promote the contribution of the public to decision-making processes (art. 13, para. 1 (a)).*

2.4. Technical assistance needs identified to improve implementation of the Convention

- *Capacity-building for the Financial Monitoring Unit, law enforcement authorities and reporting entities (art. 14, para. 1 (a)).*

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

Asset recovery is mainly governed by the general provisions on international legal assistance of the Mutual Legal Assistance (Criminal Matters) Act, the Code of Criminal Procedure, the Anti-Money-Laundering Act and the National Accountability Ordinance (sect. 12 on freezing), in addition to relevant bilateral and multilateral treaties to which Pakistan is a party. Pakistan also issued non-binding mutual legal assistance guidelines in 2020 to assist foreign countries in understanding the steps to be followed when requesting formal or informal international cooperation from Pakistan and to provide a process for internal cooperation, with timelines for domestic responses from relevant agencies.

There is no central asset recovery office in Pakistan, but agencies have separate units responsible for managing the maintenance and disposal of seized and confiscated property. Although the Secretary to the Ministry of Interior is the central authority for mutual legal assistance in general (sect. 2 (c) of the Mutual Legal Assistance (Criminal Matters) Act), NAB is the central authority for corruption-related mutual legal assistance (sect. 24 (2) of the Act). Requests can be sent directly to NAB or through any other agency or authority in Pakistan (sect. 5 (2) of the Act).

Pakistan can cooperate in the area of asset recovery on the basis of reciprocity and regardless of the existence of a treaty (sect. 3 (2) of the Act), with the exception of the enforcement of foreign confiscation orders (sect. 2 (i) of the Act).

The same set of measures and procedures that are available in domestic criminal proceedings, including those relating to the tracing, freezing, seizure and confiscation of property, are available in the context of such cooperation (sect. 1.4 (c) of the mutual legal assistance guidelines).

Although Pakistan has recovered and returned stolen assets in several cases, international cooperation and asset recovery mechanisms have not been fully utilized for the recovery of stolen assets.

While the formal transmission of information can be carried out only upon prior request (sect. 5 of the Mutual Legal Assistance (Criminal Matters) Act), the authorities of Pakistan may informally provide information to foreign authorities spontaneously and have done so in the past. The Financial Monitoring Unit, the Federal Investigation Agency, the State Bank of Pakistan, the Federal Board of Revenue, the National Savings Supervisory Board and SECP have provisions for sharing information spontaneously or on request, either under the Anti-Money-Laundering

Act or under their own procedures. The mutual legal assistance guidelines (sect. 6 (e)) allow for the spontaneous sharing of information if the information is of a nature that can be disclosed and the disclosure is within the purview of the law enforcement authority.

Pakistan is a party to a number of bilateral and multilateral international cooperation agreements in the areas of crime control and the tracing and recovery of proceeds of crime.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

Financial institutions and designated non-financial businesses and professions are subject to anti-money-laundering requirements, in accordance with the Anti-Money-Laundering Act and relevant regulations and guidelines issued by the supervisory authorities.

The requirements cover customer due diligence measures, including customer identification and verification (sect. 7A (2) (a) of the Anti-Money-Laundering Act); taking reasonable measures to identify and verify the identities of the beneficial owner or owners (sect. 7A (2) (b) of the Act); ongoing monitoring of business relationships (sect. 7A (2) (d) of the Act); record-keeping for five years from completion of the transaction or termination of the business relationship (sect. 7C of the Act); the State Bank of Pakistan regulations extend the record-keeping requirement to 10 years); and prompt reporting of suspicious transactions and attempted transactions to the Financial Monitoring Unit (sect. 7 (1) of the Act). The requirements also include assessing the risks of money-laundering and taking appropriate measures to manage those risks, and applying enhanced due diligence to high-risk customers, accounts and transactions, including accounts of current and former domestic and foreign politically exposed persons and of their family members and close associates (regulation 1 of the anti-money-laundering and countering the financing of terrorism regulations (2020) of the State Bank of Pakistan and regulation 8-24 of the SECP anti-money-laundering and countering the financing of terrorism regulations (2020)). Adequate sanctions for non-compliance are provided for under the Anti-Money-Laundering and Countering the Financing of Terrorism Sanctions Rules (2020).

The State Bank of Pakistan and SECP have issued guidelines on a risk-based approach to countering money-laundering and the financing of terrorism, which allow the regulators to notify financial institutions, at the request of another State party or on their own initiative, of the identity of natural or legal persons to whose accounts such institutions are expected to apply enhanced scrutiny, in addition to those whom the financial institutions may identify (sect. B, para. 12 of the guidelines). The Financial Monitoring Unit has also issued guidance notes, including on suspicious transaction reporting, which provide guidelines on persons, accounts and transactions that must be given particular attention.

The procedures for the establishment of banks prohibit the establishment of shell banks (sects. 5 and 27 of the Banking Companies Ordinance (1962)). Regulation 2 of the anti-money-laundering and countering the financing of terrorism regulations (2020) of the State Bank of Pakistan prohibits banks from entering into or continuing correspondent banking relations with a shell bank. The regulation also requires banks to satisfy themselves that their respondent banks do not permit their accounts to be used by a shell bank.

Pakistan has established a paper-based financial disclosure system for public officials.

Members of the Parliament and civil servants, including members of the judiciary, are required to declare their assets and liabilities, whether held domestically or abroad, as well as those of any dependent family members living with them, according to the Representation of People Act (1976) and the Government Servants (Conduct) Rules, respectively. As ministers in Pakistan are members

of the Parliament, they are covered by the asset declaration obligations; however, the obligations do not extend to the Head of State. Asset declarations must be submitted upon taking office or on first appointment, and then annually (by 30 June), but not at the end of service.

The Election Commission of Pakistan is responsible for receiving asset declarations from members of the Parliament. With regard to civil servants, there is no single, independent agency that handles asset declarations. Respective ministries and government agencies are therefore responsible for receiving declarations and enforcing the applicable requirements, as described above.

The Representation of People Act and the Government Servants (Conduct) Rules do not provide for a clear examination or verification process. In practice, verification is carried out in cases where there is a reason to suspect that the information provided is inaccurate or false, or in cases of criminal investigation.

The failure by members of the Parliament to comply with asset disclosure rules (namely, late filing or non-filing) can lead to administrative sanctions, such as suspension. Criminal sanctions, including fines and up to five years of imprisonment, can also be applied if the information declared is false. Civil servants, on the other hand, may face administrative sanctions and non-promotion to higher grades for non-compliance.

Asset declarations submitted by members of the Parliament and senators are published on the website of the Election Commission of Pakistan, whereas those submitted by civil servants are confidential but can be shared with foreign authorities upon request.

The asset declaration form covers financial accounts in a foreign country in which a public official has an interest or over which they have a signature or other authority (serial 11 of the form "Assets held as Attorney").

The Financial Monitoring Unit is the national central agency responsible for receiving, analysing and disseminating suspicious transaction reports and currency transaction reports from financial institutions and designated non-financial businesses and professions. It is located within the State Bank of Pakistan as an autonomous body with independent decision-making authority. The Unit conducts operational and strategic analysis and has direct and indirect access to several government and private databases, including border currency declarations, to support its analysis functions. It also conducts temporary freezing of accounts.

The Financial Monitoring Unit appears to have sufficient resources to perform its functions. It receives suspicious transaction reports and currency transaction reports from reporting entities in soft copy using the goAML system of the United Nations Office on Drugs and Crime.

The Unit has applied to join the Egmont Group of Financial Intelligence Units and its application is currently being processed.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

The Code of Civil Procedure (1908) explicitly grants foreign States the right to initiate civil action in any court in Pakistan, provided that such State has been recognized by the Government (sect. 84). The Code also provides the legal basis for a person, whether legal or natural, domestic or foreign, to initiate action to establish ownership of property (sect. 16) or claim compensation for damages (sect. 19) in the domestic courts. These provisions also apply to foreign States.

When having to decide on confiscation, domestic courts can recognize another State's claim as a legitimate owner of property acquired through the commission of an offence (sects. 88, 89, 517, 522 and 522-A of the Code of Criminal Procedure).

Pakistan follows the principle that confiscation should be conviction-based. The Mutual Legal Assistance (Criminal Matters) Act (sect. 14) allows, however, for the enforcement of confiscation orders issued by a court of a foreign State on the basis of a reciprocal agreement and on the condition of dual criminality, whether or not the order is based on a criminal conviction (sect. 2 (i)).

Under the Mutual Legal Assistance (Criminal Matters) Act (sect. 14 (2)), a court is required to issue adequate notice to all persons appearing to have an interest in the property against which a confiscation order may be executed. The mutual legal assistance guidelines provide further guidance for the relevant authorities on how to proceed to ensure that the property is protected from dissipation.

The Pakistan courts can also order the confiscation of property of foreign origin by adjudication of an offence of money-laundering (sect. 2, read in conjunction with sect. 4, of the Anti-Money-Laundering Act; sect. 2 (p) of the Mutual Legal Assistance (Criminal Matters) Act). The authorities of Pakistan may also obtain a domestic conviction-based order of confiscation on the basis of a foreign request (sect. 8 (d) of the Mutual Legal Assistance (Criminal Matters) Act).

Under the Mutual Legal Assistance (Criminal Matters) Act (sect. 13 (3)), the competent authorities of Pakistan are permitted to freeze or seize property upon a freezing or seizure order issued by a competent court of a foreign State through its registration with the court in Pakistan. No prior notice to the persons concerned is required in this case (sect. 4.3 of the mutual legal assistance guidelines). The Mutual Legal Assistance (Criminal Matters) Act does not provide for the enforcement of freezing or seizure orders issued by a foreign competent authority other than a court.

The Mutual Legal Assistance (Criminal Matters) Act (sect. 13 (2)) also permits Pakistan courts to freeze or seize property upon a request from a foreign State. In this case, the court may issue a freezing or seizure order only after providing the persons concerned with the opportunity to be heard and ensuring that a number of requirements are met, including dual criminality and the existence of a valid confiscation order issued by the requesting State.

Where the act of notifying the persons concerned before freezing or seizing property has the potential to compromise foreign investigations and may result in requests not being made, foreign jurisdictions have the option, in corruption-related cases, to send the request directly to NAB. In such cases, the Chair of NAB can order the seizure or freezing of the property without notifying the persons concerned. The order remains in force for a period not exceeding 15 days, unless otherwise decided by the court (sect. 12 of the National Accountability Ordinance).

The authorities of Pakistan can preserve property for confiscation in the absence of a foreign request, on the basis of the general provisions on freezing and seizure of the National Accountability Ordinance (sect. 12), the Code of Criminal Procedure (sects. 88 and 516A), and the Anti-Money-Laundering Act (sects. 6 (6), 8, 14 and 17).

The Mutual Legal Assistance (Criminal Matters) Act (sect. 8) specifies the information to be included in mutual legal assistance requests sent to Pakistan; it does not provide for the possibility of refusing a request if the property is of a de minimis value.

The Mutual Legal Assistance (Criminal Matters) Act does not prevent Pakistan from inviting the requesting State to present its reasons in favour of continuing provisional measures before it lifts them, if such a case arises.

The Mutual Legal Assistance (Criminal Matters) Act (sect. 14 (2) and (3)) provides for the protection of bona fide third parties in cases of confiscation pursuant to a foreign request.

Return and disposal of assets (art. 57)

Confiscated assets are transferred to the Government (sect. 10 of the Anti-Money-Laundering Act). Nevertheless, the Code of Criminal Procedure and the Anti-Money-Laundering Act allow for the return of such assets to the requesting country (sect. 30 of the Anti-Money-Laundering Act) or to any person claiming to be entitled to possession (sect. 517 of the Code of Criminal Procedure). Accordingly, Pakistan has returned the proceeds of embezzlement of private funds to a financial institution in a foreign jurisdiction. Furthermore, NAB may facilitate the indirect recovery of assets through voluntary return and plea bargaining (sect. 25 of the National Accountability Ordinance), and has done so in two cases.

The Mutual Legal Assistance (Criminal Matters) Act is silent on issues of return, with the exception of section 8 (1), read in conjunction with section 7 (e), according to which the central authority may transmit to the requesting country property or proceeds realized from the disposal of property, and section 14 (5), which allows the central authority to enter into arrangements with the requesting country for the return of confiscated assets in Pakistan in response to a request for the enforcement of a confiscation order.

In accordance with the Mutual Legal Assistance (Criminal Matters) Act (sect. 21), the execution of a request for mutual legal assistance in Pakistan should be conducted without charge to the requesting country, except for costs of a substantial or extraordinary nature and certain other specific costs.

3.2. Successes and good practices

- *Pakistan explicitly grants foreign States the right to initiate civil action in its courts (art. 53 (a) and (b)).*

3.3. Challenges in implementation

It is recommended that Pakistan:

- *Increase the use of international cooperation and asset recovery mechanisms to improve the recovery of stolen assets (art. 51).*
- *Consider reviewing and strengthening its financial disclosure system to make it more efficient and effective, including by moving from a paper-based to a digitalized system; extending the scope of the system to spouses in all cases; providing for a clear and adequate verification process, in particular for declarations that are not made publicly available, such as those of civil servants; and requiring the submission of financial disclosures at the end of service (art. 52, para. 5).*
- *Consider taking measures to allow confiscation of property without a criminal conviction in corruption cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases (art. 54, para. 1 (c)).*
- *Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order issued by a foreign competent authority other than a court (art. 54, para. 2 (a)).*

- *Consider the Convention as the necessary and sufficient treaty basis for the enforcement of confiscation orders issued by a court of another State party, in the absence of a reciprocal agreement (art. 54, para. 1 (a) and art. 55, para. 6).*
- *Expressly provide for the return and disposal of assets in accordance with the provisions of article 57, paragraph 3, of the Convention (art. 57, paras. 1 and 3).*

3.4. Technical assistance needs identified to improve implementation of the Convention

- *Capacity-building in the area of asset recovery, including investigative techniques.*

IV. Implementation of the Convention

A. Ratification of the Convention

The Government of Islamic Republic of Pakistan had signed the United Nations Convention Against Corruption (the “Convention”) on 9 December 2003 and ratified it on 31 August 2007; with a declaration that it does not consider itself bound by the provisions of paragraph 2 of Article 66 of the Convention. Moreover, Pakistan has also declared that it does not take the Convention as the legal basis for cooperation on extradition with other States Parties pursuant to Article 44, paragraph 6 of the Convention.

The Government of Pakistan has designated its National Accountability Bureau (“NAB”) as the Central Authority to receive all requests for Mutual Legal Assistance from other States Parties under the Convention. All such requests shall be in English, if otherwise in any other language it shall be accompanied by an official translation in English. The Government of Pakistan has also nominated its National Accountability Bureau (NAB) to develop and implement specific anti-corruption measures in the country and cooperate at international level, under Article 6 (3) of the Convention.

B. Legal system of Pakistan

The Constitution of the Islamic Republic of Pakistan, 1973 provides for a federal parliamentary system with a President as Head of State and an elected Prime Minister as Head of Government. The Federal Legislature consists of the Senate (upper house of the parliament and permanent legislative body) and the National Assembly (lower house of the parliament), which together with the President make up a body known as the Majlis-i-Shoora.

Treaties are not self-executing in Pakistan but are incorporated into the domestic legal framework. The legal system of Pakistan is derived from English common law based on the 1973 Constitution (with amendments) and also some provisions of Sharia Law (Islamic Law). The sources of law referred to include the following:

- § The Constitution of Islamic Republic of Pakistan, 1973;
- § The Mutual Legal Assistance (Criminal Matter) Act, 2020;
- § The Auditor General (Functions, Powers and terms and Condition of Service) Ordinance, 2001 (XXII of 2001);

- § The Controller General of Accounts (Appointment, Function and Powers,) Ordinance, 2001 (XXIV of 2001);
- § The Election Commission Act, 2017;
- § The National Accountability Ordinance (“NAO”) (1999);
- § The Federal Board of Revenue Act, 2007
- § The Anti-Money Laundering Act (“AMLA”) (2010);
- § The Federal Investigation Agency Act (“FIA”) 1974 (VIII OF 1975);
- § The Prevention of Corruption Act (“PCA”) (1947);
- § The Pakistan Penal Code (“PPC”) (Act XLV of 1860);
- § The Code of Criminal Procedure (“CrPC”) (1898);
- § The Civil Procedure Code (“CPC”) (1908);
- § The Benami Transactions (Prohibition) Act, 2017.
- § The Federal Public Service Commission Ordinance (“FPSC”), 1977;
- § The Extradition Act, 1972;
- § The Punjab Witness Protection Act, 2018;
- § The Companies Act, 2017;
- § The Witness Protection, Security and Benefit Act, 2017;
- § The Public Interest Disclosures Act, 2017;
- § The Balochistan Witness Protection Act, 2016;
- § The Sindh Transparency and Right to Information Act, 2016;
- § The Khyber Pakhtunkhwa Whistleblower Protection and Vigilance Commission Act, 2016;
- § The Civil Servant Act 1973;
- § The Government Servants (Efficiency and Discipline) Rules, 2020;
- § The Elections Act, 2017;
- § The Law of Evidence (Qanoon-e-Shahadat Order (QSO)), 1984, read with Electronic Transaction Ordinance (ETO), 2002, with reference to admissibility of evidence collected through modern devices;
- § The Right of Access to Information Act, 2017;
- § The Punjab Transparency and Right to Information Act, 2013;
- § The Benami Transaction Act, 2017;
- § The Balochistan Freedom of Information Act, 2005;
- § The Khyber Pakhtunkhwa Right to Information Act, 2013;
- § The Federal Ombudsman Institutional Reforms Act, 2013;
- § The Punjab Office of the Ombudsman Act 1997;
- § The Establishment of the Office of Ombudsman for the Province of Sindh Act, 1991;
- § The Khyber Pakhtunkhwa Provincial Ombudsman Act, 2010; and

§ The Establishment of the office of Ombudsman for the Province of Balochistan Ordinance, 2001.

Pakistan has four provinces, a capital territory and two autonomous territories. In each province, there exists a Provincial Assembly, which is directly elected to the Provincial legislature.

1. The two autonomous territories include the the Pakistan-administered part of Kashmir, which includes Azad Jammu and Kashmir, and Gilgit-Baltistan.
2. The federal legislature consists of the Senate (upper house of the Parliament) and the National Assembly (lower house of the Parliament). The Senate is a permanent legislative body involving equal representation from each province and elected by the members of the respective provincial assemblies. The Senate also includes representatives from Islamabad Capital Territory. The members of the National Assembly of the Parliament are directly elected by the citizens of the Islamic Republic of the age of eighteen years and above. According to the Constitution of the Islamic Republic of Pakistan, the National Assembly, the Senate and the President together make up Majlis-i-Shoora (Parliament). In each province, there exists a Provincial Assembly, which is directly elected legislature. Members are elected for five-year terms. Each Assembly elects a Chief Minister, who then selects the ministers of his or her Provincial cabinet.
3. The Pakistani judicial system is based on the hierarchy of courts including the Supreme Court of Pakistan (“SCP”), provincial High Courts, and other lower courts which have jurisdiction over criminal and civil matters (Some federal and provincial courts and tribunals such as Services Tribunals, Income tax and Excise court, Banking court, Accountability and Boards of Revenue's Tribunals have also been established).The Federal Shariat Court was created in 1980 with jurisdiction to determine as to whether or not a certain provision of law is repugnant to the injunctions of Islam.
4. The political structure of Pakistan has evolved within the framework of a federal republic, where the system of government has at times been parliamentary, presidential, or semi-presidential. In the current parliamentary system, the President of Pakistan is the ceremonial head of State; the Prime Minister is head of government. The Executive powers are exercised by the government and the legislative powers are vested in the Parliament.
5. The following laws have been referred in the Self-Assessment Checklist of the Country Review of Pakistan under UNCAC:
 - § The Constitution of Islamic Republic of Pakistan, 1973;
 - § The Mutual Legal Assistance (Criminal Matter) Act, 2020;
 - § The Auditor General (Functions, Powers and terms and Condition of Service) Ordinance, 2001 (XXII of 2001);
 - § The Controller General of Accounts (Appointment, Function and Powers,) Ordinance, 2001 (XXIV of 2001);
 - § The Election Commission Act, 2017;
 - § The National Accountability Ordinance (“NAO”) (1999);
 - § The Federal Board of Revenue Act, 2007
 - § The Anti-Money Laundering Act (“AMLA”) (2010);
 - § The Federal Investigation Agency Act (“FIA”) 1974 (VIII OF 1975);

- § The Prevention of Corruption Act (“PCA”) (1947);
- § The Pakistan Penal Code (“PPC”) (Act XLV of 1860);
- § The Code of Criminal Procedure (“CrPC”) (1898);
- § The Code of Civil Procedure (“CPC”) (1908);
- § The Benami Transactions (Prohibition) Act, 2017.
- § The Federal Public Service Commission Act (“FPSC”), 1973;
- § The Extradition Act, 1972;
- § The Punjab Witness Protection Act, 2018;
- § The Companies Act, 2017;
- § The Witness Protection, Security and Benefit Act, 2017 (XXI of 2017);
- § The Public Interest Disclosures Act, 2017;
- § The Balochistan Witness Protection Act, 2016;
- § The Sindh Transparency and Right to Information Act, 2016;
- § The Khyber Pakhtunkhwa Whistleblower Protection and Vigilance Commission Act, 2016;
- § The Civil Servant Act 1973;
- § The Government Servants (Efficiency and Discipline) Rules, 1973;
- § The Elections Act, 2017;
- § The Law of Evidence (Qanoon-e-Shahadat Order (QSO)), 1984, read with Electronic Transaction Ordinance (ETO), 2002, with reference to admissibility of evidence collected through modern devices;
- § The Right of Access to Information Act, 2017;
- § The Punjab Transparency and Right to Information Act 2013;
- § Benami Transaction Act, 2017;
- § The Balochistan Freedom of Information Act 2005;
- § The Khyber Pakhtunkhwa Right to Information Act 2013;
- § The Federal Ombudsman Institutional Reforms Act, 2013;
- § The Punjab Office of the Ombudsman Act 1997;
- § The Establishment of the Office of Ombudsman for the Province of Sindh Act, 1991;
- § The Khyber Pakhtunkhwa Provincial Ombudsman Act, 2010; and
- § The Establishment of the office of Ombudsman for the Province of Balochistan Ordinance, 2001.

(Soft link also)

<http://www.molaw.gov.pk/firmDetails.aspx>

<http://www.molaw.gov.pk/pubDetails.aspx>

https://punjabcode.punjab.gov.pk/en/get_laws

<http://sindhlaws.gov.pk/SindhIndex.aspx>

<http://kpcode.kp.gov.pk>

<http://pabalochistan.gov.pk/pab/pab/tables/alldocuments/actdocx/2018-10-23%2012:09:48act042016.pdf>

<http://pakrtidata.org/wp-content/uploads/2017/12/Balochistan-Freedom-of-Information-Act-2005.pdf>

<https://www.interior.gov.pk/index.php/international-cooperation>

Hyperlink to or copy of any available assessments of measures to combat corruption and mechanisms to review the implementation of such measures taken by Pakistan:

Pakistan is ranked at 117 least corrupt nation out of 180 countries, according to the 2018 Corruption Perceptions Index reported by Transparency International. Corruption Rank in Pakistan averaged 109.04 from 1995 until 2018, reaching an all-time high of 144 in 2005 and a record low of 39 in 1995.

<https://www.transparency.org/cpi2018>

NAB publishes an Annual Report yearly, which is presented to the President of the Islamic Republic of Pakistan. It highlights NAB's achievements and progress.

<http://nab.gov.pk/Downloads/NAB%20Annual%20Report%202018.pdf>

Legal Relationship between NAO and PPC

6. It is pertinent to mention here that Section 161 to 162 of the Pakistan Penal Code, 1860 ("PPC, 1860") and Sec 9 of the National Accountability Ordinance, 1999 ("NAO, 1999") are the key pieces of legislation which deal with Article 15 of the UNCAC.

7. As mentioned Section 9 of the NAO, 1999 states that the holder of a public office, or any other person is said to commit or to have committed the offence of corruption and corrupt practices "*(i) if he accepts or obtains from any person or offers any gratification directly or indirectly, other than legal remuneration, as a motive or reward such as is specified in section 161 of the Pakistan Penal Code (Act XLV of 1860) for doing or for-bearing to do any official act, or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person...*".

8. There is a direct nexus between section 161 of PPC, 1860 and section 9 of the NAB Ordinance, 1999; in fact, PPC, 1860 is a penal code which applies to all offences committed in Pakistan. It is the codified body of the laws in Pakistan that relate to crime and its punishment; section 1 of the PPC, 1860 states that it shall take effect throughout the territory of Pakistan. Nevertheless, section 4 of PPC, 1860 states that the provisions of this Code apply to any offence committed by any citizen of Pakistan or any person in the service of Pakistan in any place "without and beyond Pakistan".

Section 5 of PPRA Ordinance 2002 empowers PPRA to take such measure and exercise such powers as may be necessary for improving governance, management, transparency, accountability and quality of public procurement of goods, services and works.

In order to combat the menace of corruption in public procurement the Authority took initiative to review and evaluate existing procurement laws in comparison with international standards and

regulatory experience feedback. In addition to review of existing laws, rules for disposal of asset and electronic procurement have been incorporated.

Moreover, the process for hiring of E-Procurement Service Provider has been initiated, and within next two years, all the procurement shall be made through E-Procurement System.

In addition, Standard Bidding Documents (SBDs) are being developed for goods and services to eliminate discrepancies in the SBDs used by various procuring agencies, whereas, SBDs for works prepared by Pakistan Engineering Council (PEC) shall be reviewed and harmonized along with proposed Regulatory Framework 2020.

Relevant information regarding the preparation of Pakistan's responses to the self-assessment checklist:

1. Measures taken by National Accountability Bureau ("NAB")

(i). Establishment of Awareness and Prevention Division at NAB HQ and Awareness and Prevention Wing in all regional NABs.

(ii). Formulation of Prevention Committees.

(iii). Character Building Societies at school and college level.

(iv). Reporting of Contract of Rs 50 Million and above to NAB.

(v). Lectures / Seminars by Awareness and Prevention Division.

(vi). The Chairman NAB and the Director Generals of all the regions conduct a public hearing at every last Thursday of the month to hear the grievances of the public and receive complaints. This initiative was taken by the current Chairman NAB.

(vii). There Chairman conducts an executive board meeting every week to discuss various cases and discuss new initiatives to combat corruption.

2. Measures taken by National State Bank of Pakistan ("SBP")

The SBP has put in place effective regulatory and supervisory regime to strengthen the governance, risk management and compliance functions in banks and money services businesses to prevent the use of banking channels for the purposes of Money Laundering ("ML") and terrorist financing ("TF").

In this regard, SBP has put in place a comprehensive AML/CFT regulatory framework, which is fully aligned with International/ FATF's standards and covers all essential aspects of preventive and control measures required therein.

The AML/CFT regulations are reviewed from time to time and amendments are made as per changing requirements and global developments in this area.

3. Measures taken by the Office of Auditor General of Pakistan ("AGP")

In implementing Article 8 (5) of UNCAC, each public official of Government of Pakistan is required to make declaration to appropriate authorities of his / her outside activities, employment, investments, assets, substantial gifts or benefits received in official capacity.

The AGP has issued directions to all its officers at HQ and subordinate offices to submit the aforementioned information on annual basis / urgently as and where required.

If the officials fail to do so, he is proceeded against under the Conduct Rules 1964. Similarly, other steps taken by Auditor General's Office are:

- (i) Formulation of Code of Ethics;
- (ii) Whistle blowing policy;
- (iii) Introduction of Toll Free # 0800 22 999 on the website for reporting of complaints;
- (iv) Strengthening of Inspection Regulation and Vigilance Wing to check the misreporting; and
- (v) Mandatory declaration of assets & liabilities by officers and staff.

Apart from the above steps taken for effective disclosure are as follows:

- (i) Annual Report is published annually;
- (ii) All Audit Report discussed by Parliament; and
- (iii) Institution of Audit Policy Board includes citizens and organizations.

4. Measures taken by Federal Board of Revenue ("FBR")

In order to make Anti Money Laundering ("AML") mechanism more effective, certain offences of the Sales Tax Act, 1990, and Federal Excise Duty Act, 2005 have been included in the list of predicate offences through amendment in the Anti-Money Laundering Act, 2010 as under:

(a) Sales Tax

- (i.) Entry (11) of section 33 of the sales Tax Act, 1990;

Any person who, -

- (a) submits a false or forged document to any officer of Inland revenue; or
- (b) destroys, alters, mutilates or falsifies the records including a sales tax invoice; or
- (c) knowingly or fraudulently makes false statement, false declaration, false representation, false personification, gives any false information or issues or uses a document which is forged or false.

- (ii.) Entry (13) of section 33 of the Sales Tax Act, 1990:

Any person, who commits, causes to commit or attempts to commit the tax fraud, or abets or connives in commissioning of tax fraud;

- (b) Federal Excise;

Section 19 (3) of the Federal Excise Act, 2005:

- (3) Any person who;

a) illegally removes, stores, keeps, or withdraws or in any way assists or is concerned in the illegal removal or withdrawal of any goods in the manner other than the manner prescribed under this Act or rules made there under;

b) is in any way concerned in conveying, removing, depositing or dealing with any goods with intent to defraud the Government of any duty of excise due thereon, or to violate any of the provisions of this Act or rules made there under;

c) is in any way concerned in any fraudulent evasion or attempt at fraudulent evasion of any duty of excise;

d) claims, takes or avails adjustment of duty not admissible under this Act or the rules made there under; and

e) is in any way concerned in the manufacture of any dutiable goods in contravention of the provisions of this Act or rules made there under.

(c) Income Tax

Similarly, certain provisions of the Income Tax Ordinance, 2001 have been included in the list of predicate offences through SRO.425 (I)/2016 dated May 14, 2016:

Section 192. Prosecution for false statement in verification - where tax sought to be evaded is ten million rupees or more.

Section 192A. Prosecution for concealment of income - where tax sought to be evaded is ten million or more.

Section 194. Prosecution for improper use of national Tax number (certificate) where tax sought to be evaded is ten million or more.

Section 199. Prosecution abetment - where tax sought to be evaded is ten million or more.

In addition to above, Directorate General of Intelligence & Investigation (Inland Revenue) has been included in the definition of the Investigation and Prosecution Agency for the purposes of Anti-Money Laundering Act, 2010 to broaden the scope of anti-money laundering apparatus to make it more effective.

Practices that Pakistan considers to be good practices in the implementation of the chapters of the Convention that are under review:

- a. Formulation of Prevention Committees.
- b. Character Building Societies at school and college level.
- c. Reporting of Contract of Rs 50 Million and above to NAB.
- d. Lectures / Seminars by Awareness and Prevention Division.
- e. The Chairman NAB and the Director Generals of all the regions conduct a public hearing at every last Thursday of the month to hear the grievances of the public and receive complaints. This initiative was taken by the current Chairman NAB.
- f. The Chairman conducts an executive board meeting every week to discuss various cases and discuss new initiatives to combat corruption.

Measures/steps that need to be taken, according to Pakistan, to ensure full compliance with the chapters of the Convention that are under review:

Measures need to be taken by Financial Monitoring Unit (“FMU”)

Article 14. Measures to prevent money-laundering:

Pakistan’s FMU needs to acquire Egmont Membership to effectively share Financial Intelligence with its foreign Counterparts.

This will enhance the level of International Cooperation between FMU and other FIUs.

FIUs share financial transaction information and intelligence with a number of counterpart FIUs as this information exchange benefits not only the operational work of the FIUs, but also law enforcement agencies in tracking the international movements of the proceeds of crime.

FMU has applied to join the Egmont Group and its application is under process.

C. Implementation of selected articles

II. Preventive measures

Article 5. Preventive anti-corruption policies and practices

Paragraph 1 of article 5

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

1. National Accountability Bureau (“NAB”)

Pakistan has adopted an anti-corruption strategy known as National Anti-Corruption Strategy (“NACS”). Pakistan’s anti-corruption strategy has been developed in coordination with the entities and the civil society and was adopted by the Government on 7 July 2002. The Strategy is accompanied by an Action plan for its implementation. It has laid great emphasis on the importance of prevention and has suggested preventive measures for our identified national integrity pillars i.e. Legislature, Judiciary, Executive, Public Accountability Bodies, Anti-corruption Agencies, Media, Civil society and Private sector. The National Accountability Bureau (“NAB”) is the main preventive anti-corruption body at State level in Pakistan. NAB is an independent department and it reports to the President of Pakistan. NAB has been declared as the designated Central Authority on Prevention Regime under the United Nations Convention Against Corruption (“UNCAC”). The establishment of Awareness and Prevention Division at the NAB Headquarters and its Wings in the Regional Bureaus reflects the Bureau’s commitment to the holistic approach of a three-pronged strategy i.e. Awareness, Prevention & Enforcement for curbing the menace of corruption in the country. The Prevention methodology of the NAB gets its strength from the Sections 33B and 33C of the National Accountability Ordinance (NAO), 1999.

“Reporting of public contracts

Measures for the prevention of corruption and corrupt practices

<http://nab.gov.pk/Downloads/nao.asp>

33B. All Ministries, Divisions and Attached Departments of the Federal Government, all departments of Provincial and local governments, statutory corporations or authorities established by the Federal Government or Provincial Government and holders of public office shall furnish to NAB a copy of any contract, entered into by such Ministries, Divisions and Attached Departments of the Federal Government, all departments of Provincial Government or local government, statutory corporations or authorities established by the Federal Government or Provincial Government or such holder of public office on its behalf, as the case may be, of the minimum monetary value of fifty million rupees or more, within such time as is reasonably practicable from the date of signing such contract.

33C. The Chairman NAB, shall from time to time as he deems fit, constitute committees comprising officers of the NAB or other persons or organizations from the private or public sectors to- (a) educate and advise public authorities, holders of public office and the community at large on measures to combat corruption and corrupt practices; (b) develop, arrange, supervise, participate in or conduct educational programmes or media campaigns, and generally to disseminate information on the detrimental effects of corruption and corrupt practices and the importance of maintaining the integrity of public administration; (c) examine the laws in force, and also rules and regulations relating to the practice and procedure of various ministries, departments of the Federal Government or Provincial Government, statutory or other public corporations or bodies, and the conduct of holders of public office and to recommend amendments in such laws, rules or regulations, as the case may be, in order to eliminate corruption and corrupt practices; (d) instruct, advise and assist any statutory or other public corporation or bodies or upon request, any organization in the private and public sector on measures for the reduction and elimination of corruption and corrupt practices; and (e) monitor the implementation of the instructions and advice as aforesaid and to assess and evaluate the success or otherwise of such instructions and advice on the reduction and elimination of corruption and corrupt practices.”

The public sector tendering process/contract agreements are scrutinized by the Awareness and Prevention Division/ Wings at the NAB HQ as well as Regional Offices. The public procuring entities are also advised to strictly follow the public procurement rules for ensuring transparency in the tender processes and subsequent award of contracts. All public sector organizations are required to provide details of the contracts of monetary value Rs. 50 million or above to NAB as per law. NAB is fully aware of the fact that corruption in procurement represents a potentially large drain on the public purse. Other adverse impacts include faulty and inadequate service provision, inflated maintenance and replacement costs, environmental damage, reduced efficiency and innovation, damage to public trust in government and curtailment of economic development.

There is a Public Procurement Regulatory Authority, which is autonomous with the responsibility of prescribing regulations and procedures for public procurements by Federal Government owned public sector organizations with a view to improve governance, management, transparency, accountability and quality of public procurement of goods, works and services. It has the responsibility of monitoring procurement by public sector agencies/organizations and has been delegated necessary powers under the Public Procurement Regulatory Authority Ordinance 2002.

The formation of Prevention Committees under Section 33C of NAO, 1999 at NAB HQ and Regional level provides a unique platform for analyzing the contracts under the existing rules, procedures and laws of public sector departments and to suggest amendments/changes in processes for enhanced transparency and effectiveness. It involves frequent meetings with other government offices and relevant stakeholders wherein the existing weaknesses in the systems are thoroughly discussed before suggesting changes in the systems. The role of the Prevention Committees has been highly praised by the public sector, as their official business and mitigating the risks of corruption in the public sector service delivery. Prevention Committees in different sectors have been successfully finalized the recommendations to plug the loopholes in the existing procedures for improving and strengthening the regulatory mechanism of public sector service delivery for transparency, meritocracy, fair play and compliance with relevant laws.

NAB is responsible, inter alia, for drafting the Anti-Corruption Strategy and the Action Plan for the prevention of corruption, coordination and supervision of their implementation; coordination of the work of public institutions in preventing corruption and conflicts of interest; monitoring of conflicts of interest; cooperation with international organizations; the development of educational programs

for the prevention of corruption and the fight against corruption. For a more efficient implementation of the Anti-Corruption Strategy, institutions and agencies at all levels, public agencies and other bodies of public authority are obliged to cooperate with NAB.

2. Establishment Division (Regulation Wing)

The Establishment Division is concerned with interpretation of Civil Servants Act, 1973 and rules made thereunder. The mechanism to regulate the conduct of government servants and eradication of corruption in the public sector is provided in the Government Servants (Efficiency & Discipline) rules, 1973 and Government Servants (Conduct) Rules, 1964. Further, to deal with the cases of corruption by the government servants, instructions regarding setting-up of Committees and comprehensive procedure for cleansing government offices and departments of corruption and inefficient elements have been issued vide Establishment Division's D.O. No.1/7/74-CV 22.08.1974 (printed at S. No.178 of ESTACODE 2007 Edition).

Establishment Division (Discipline Wing)

Discipline Wing deals with the cases of disciplinary proceedings, appeals, general complaints and declaration of assets of the officers of PAS, PSP, Secretariat and OMG groups under Efficiency & Discipline Rules, 1973. The cases of disciplinary cases of ex-cadre officers of BS-20 and above are also dealt in Discipline Wing as per following procedure.

3. Federal Board of Revenue ("FBR")

In case of any corruption or misuse of authority, all employees of FBR (who are government servants) are subject to Efficiency & Discipline Rules, 1973, Federal Investigation Agency Act 1974, National Accountability Ordinance 1999 and Removal from Service Ordinance, 2000. Apart from the above, in case of maladministration by any civil servant/FBR employee complaint may be filed to the Federal Tax Ombudsman and Federal Ombudsman under the Federal Tax Ombudsman Ordinance 2000 and Wafaqi Mohtasib Ordinance 1983, respectively. The main function of Federal Tax Ombudsman is to ensure disposal of complaints of tax maladministration promptly, justly, fairly, independently investigated, and to rectify any injustice done to a taxpayer by actions of the tax employees of Federal Board of Revenue (FBR)/Revenue Division, Government of Pakistan.

All the provinces have their own civil servant acts to regulate the conduct of government servants and eradication of corruption in the public sector from the respective provincial governments. These are as follows:

1. The Punjab Civil Servants Act, 1974

https://iota.punjab.gov.pk/system/files/THE%20PUNJAB%20CIVIL%20SERVANTS%20ACT%201974_0.pdf

2. The Sindh Civil Servants Act, 1973

<https://sindh.gov.pk/dpt/rules/C-S-ACT.pdf>

3. The Khyber Pakhtunkhwa Civil Servants Act, 1973

http://kp.gov.pk/uploads/2016/03/8._The_Khyber_Pakhtunkhwa_Civil_Servants_Act,_1973_.pdf

4. The Balochistan Civil Servants Act, 1974

http://pabalochistan.gov.pk/pab/pab/tables/alldocuments/actdocx/2019-12-13_15:03:22_3da89.pdf

4. The Accountant General of Pakistan Revenues (“AGPR”)

The AGPR is responsible for centralized accounting and reporting of federal transactions. Government accounting is the process of recording, analyzing, classifying, summarizing, communicating and interpreting financial information about government. This information shows the true and fair picture of financial information for decision makers. Over the time this office has improved its operations and financial reporting systems by inducting internationally recognized software, adoption of standards and best practices. The improvement in financial reporting and budgeting system has important implication for accountability, accuracy, reliability, and overall financial health of reports.

5. The Controller General of Accounts (“CGA”)

The CGA, since its inception, has been pursuing Anti-corruption measures through implementation of Accounting Policies & Procedures in the Public Sector transactions.

6. Public Procurement Regulatory Authority (“PPRA”)

PPRA Ordinance, 2002 empowers PPRA to take such measures and exercise such powers as may be necessary for improving governance, management, transparency, accountability and quality of public procurement of goods, services and works in the public sector. PPRA has already introduced Integrity Pact (as a Policy) for large procurements, and such more policies may be introduced by the PPRA with the passage of time, to counter the elements of corruption during all phases of procurement including contract execution.

In this regard the Authority has issued instructions on August 9, 2019 (*Instruction number / title along with text of instructions need to be reproduced here*) pertaining to blacklisting/debarment by international organization on account of having been found indulged into corrupt and fraudulent (including collusive, coercive, and obstructive) practices, since provisions pertaining to international blacklisting/debarment were not referred in the existing rules.

Another instruction was issued on August 14, 2019 (*Instruction number / title along with text of instruction need to be reproduced here*) for the determination of modalities to invoke the Clause-77.1 of the ‘particular conditions of the contract’ prescribed in Pakistan Engineering Council (“PEC”) Bidding Documents for Civil Works. Under reference clause composition or the constitution of the Joint Venture (“JV”) may be altered after seeking consent from the Employer. The instruction stipulates that since such clause is vague, as it did not define the process or qualification procedure to bring in new JV partner(s), which erodes the most essential procurement principles of i.e. fairness and transparency.

Examples of the implementation

Disciplinary proceedings against number of officers and staff have been initiated by NAB. The details of last five years are as follows;

<u>Year</u>	<u>Major Penalties</u>	<u>Minor Penalties</u>	<u>Exonerated</u>	<u>Under Process/ Others</u>	<u>Total</u>
-------------	------------------------	------------------------	-------------------	------------------------------	--------------

2015	8	9	2	2	21
2016	4	11	8	1	24
2017	3	6	2	1	12
2018	0	6	3	31	40
2019	3	3	16	31	53
Total	18	35	31	66	150

Data of disciplinary proceedings - Establishment Division

<u>Total Cases</u>	<u>Abated due to Retirement</u>	<u>Minor Penalty</u>	<u>Major Penalty</u>	<u>Exoneration/ completed</u>
149	10	23	14	54

Data of disciplinary proceedings - Federal Board of Revenue (FBR) during last three years

<u>Total Cases</u>	<u>Minor Penalty</u>	<u>Major Penalty</u>	<u>Exonerated</u>	<u>Under Process</u>
55	14	3	12	26

(b) Observations on the implementation of the article

In 2002, Pakistan adopted a national anti-corruption strategy with no defined time frame, focusing on the following pillars for national integrity: the legislature, the judiciary, the executive, public accountability bodies, anti-corruption agencies, the media, civil society and the private sector. The strategy is in the process of being reviewed and updated, but there is no national review, monitoring and reporting mechanism related to its implementation.

It is therefore recommended that Pakistan establish a monitoring and reporting mechanism on the implementation of the national anti-corruption strategy and other relevant policies.

Paragraph 2 of article 5

2. Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

NAB

According to Section 33B and 33C of National Accountability Ordinance 1999, NAB has been mandated to accomplish Prevention activities. Prevention Regime is classified as reformation through Constitution of Prevention Committees under Section 33C. In pursuance of Section 33C, Chairman NAB shall from time to time if he deems fit, constitute Prevention Committees for the reduction and elimination of corruption and corrupt practices. In pursuance of Section 33B regarding Reporting of Public Contracts all departments of Federal and Provincial Governments are bound to furnish a copy of any contract of the minimum monetary value of 50 million rupees or more to NAB.

NAB has been mandated vide Section 33C (a) and (b) to accomplish awareness activities with the aim to transform the social attitude from indifference to abhorrence against corruption. It may involve building anti-corruption coalitions, positioning various aspects and dimensions of the menace of corruption into the lime light. Building the image of NAB and requisite character traits, all the way through formal and informal media. Under its mandate of Awareness, the message has to be conveyed to the whole community, from the highest level to the lowest level of every age group.

“Reporting of public contracts

Measures for the prevention of corruption and corrupt practices

<http://nab.gov.pk/Downloads/nao.asp>

33B. All Ministries, Divisions and Attached Departments of the Federal Government, all departments of Provincial and local governments, statutory corporations or authorities established by the Federal Government or Provincial Government and holders of public office shall furnish to NAB a copy of any contract, entered into by such Ministries, Divisions and Attached Departments of the Federal Government, all departments of Provincial Government or local government, statutory corporations or authorities established by the Federal Government or Provincial Government or such holder of public office on its behalf, as the case may be, of the minimum monetary value of fifty million rupees or more, within such time as is reasonably practicable from the date of signing such contract.

33C. The Chairman NAB, shall from time to time as he deems fit, constitute committees comprising officers of the NAB or other persons or organizations from the private or public sectors to- (a) educate and advise public authorities, holders of public office and the community at large on measures to combat corruption and corrupt practices; (b) develop, arrange, supervise, participate in or conduct educational programmes or media campaigns, and generally to disseminate information on the detrimental effects of corruption and corrupt practices and the importance of maintaining the integrity of public administration; (c) examine the laws in force, and also rules and regulations relating to the practice and procedure of various ministries, departments of the Federal Government or Provincial Government, statutory or other public corporations or bodies, and the conduct of holders of public office and to recommend amendments in such laws, rules or regulations, as the case may be, in order to eliminate corruption and corrupt practices; (d) instruct, advise and assist any statutory or other public corporation or bodies or upon request, any organization in the private and public sector on measures for the reduction and elimination of corruption and corrupt practices; and (e) monitor the implementation of the instructions and advice as aforesaid and to assess and evaluate the success or otherwise of such instructions and advice on the reduction and elimination of corruption and corrupt practices.”

All of the Anti-Corruption Establishment’s (“ACE’s”) have close coordination with the NAB and carried out their awareness and prevention activities regularly in their respective jurisdictions. Anticorruption day celebrations are also being carried out regularly by NAB and all ACEs under their jurisdictions throughout Pakistan.

FBR

The Federal Board of Revenue (“FBR”) while processing of claims for making payments observe certain rules, regulations and instructions of government of Pakistan. In order to improve our processes, they have taken many steps including:

- a. Revised the pre-audit check list according to the rules and regulations under direction from Finance Division;
- b. Discontinued all manual payment processes and ensure all employee related payments be made directly into the bank account and third-party payments through opening vendors after necessary verification of the firm from Federal Board of Revenue/Tax Authorities.;
- c. Payments are processed through system under very strict user authorization control and logs are maintained; and
- d. Established different levels for authorization of payments to be processed and verification of necessary documents under the specific rules/ regulations.

The Accountant General of Pakistan Revenues (“AGPR”)

AGPR while processing of claims for making payments observe certain rules, regulations and instructions of government of Pakistan. In order to improve our processes, we have taken so many steps including:

- (a). Revised the pre-audit check list according to the rules and regulations under direction from Finance Division.
- (b). Discontinued all manual payment processes and ensure all employee related payments be made directly into the bank account and third-party payments through opening vendors after necessary verification of the firm from Federal Board of Revenue/Tax Authorities.
- (c). Payments are processed through system under very strict user authorization control and logs are maintained.
- (d). Established different levels for authorization of payments to be processed and verification of necessary documents under the specific rules/ regulations.

Examples of the implementation

Data of Data of Prevention Activities Carried out Since 2017

S#	Prevention Activities	Total
1.	Prevention Committees Since 2017	
	i. Number of Prevention Committees formed since 2017	15
	ii. Number of Prevention Committees concluded since 2017	05
	iii. Number of Prevention Committees under process	32
2.	Number of Amendments suggested in the current framework to prevent the chances of corruption	04
3.	Number. of Character-Building Societies	31,406

4.	Number of contracts evaluated	08
5.	Number of contract process for cancellation as preventive measures	-
6.	Number of trainings imparted regarding preventive measures	07
7.	Number of Newsletters issued	77
8.	No. of Annual Reports	03

Data of Prevention Activities Carried out during 2019:

Ser #	Province/ City	Seminars/ Walks	CBSc	Seminars/ Lectures in Collaboration with ACEs	Prevention Committees
1.	Islamabad	13	-	-	2
2.	Punjab	13	2389	-	-
3.	Sindh	16	1011	1	-
4.	Khyber Pakhtoonkhawa	17	911	1	-
5.	Balochistan	10	200	1	-
6.	Rawalpindi/ Punjab	10	1859	-	-
7.	Multan/ Punjab	18	3531	1	2
8.	Sukkur/Sindh	18	800	-	-
Total		115	10701	4	4

(b) Observations on the implementation of the article

NAB implements a wide range of prevention activities at the federal and provincial levels through broadcast, print and social media. Those activities include organizing awareness-raising campaigns, establishing character-building societies in the education system; holding competitions, and organizing study tours and lectures.

Paragraph 3 of article 5

3. Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

NAB

Amendments in NAO, 1999. Number of amendments have been carried out in NAO, 1999 from time to time.

NAB Annual Director General's Conference. Senior Management including Director Generals of NAB HQ and all regional Director Generals sit together for reviewing the existing anticorruption polices and recommend / approve change for effective implementation of anticorruption strategy.

Chairman's directives regarding preventive measures. During the course of implementation of anticorruption strategy if some difficulties arise, Chairman NAB issues directives for corrective measures.

The Controller General of Accounts (CGA)

The move to amend the Auditor General of Pakistan ("AGP") Act is under way. We are implementing the provisions under the Controller General Accounts ("CGA") and AGP Act. Policies, procedures, rules, regulations of Finance Department with respect to financial transactions, statements and account keeping are being implemented truly by CGA/AG Punjab Office.

Public Procurement Regulatory Authority ("PPRA")

Clause-b of subsection-2 of Section-5 of PPRA Ordinance, 2002 empowers PPRA to evaluate the respective laws/ rules /regulations to recommend the reformulation thereof. In this connection, PPRA has drafted Revised Regulatory Framework 2020, submitted for approval to the competent fora, for effective implementation of the rules/regulations and procurement guidelines that would definitely reduce the elements of corruption.

"5. Functions and powers of the Authority. -

(1) Subject to other provisions of this Ordinance, the authority may take such measures and exercise such powers as may be necessary for improving governance, management, transparency, accountability and quality of public procurement of goods, services and works in the public sector.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the Authority may

(a) monitor application of the laws, rules, regulations, policies and procedures in respect of, or relating to, procurement;

(b) monitor the implementation of and evaluate laws, rules, regulations, policies and procedures in respect of, or relating to, inspection or quality of goods, services and

(c) recommend to the Federal Government revisions in or formulation of new laws, rules and policies in respect of or related to public procurement;

(d) make regulations and lay down codes of ethics and procedures for public procurement, inspection or quality of goods, services and works;

(e) monitor public procurement practices and make recommendations to improve governance, transparency, accountability and quality of public procurement;

(f) monitor overall performance of procuring agencies and make recommendations for improvements in their institutional set up;

(g) provide and coordinate assistance to procuring agencies for developing and improving their institutional framework and public procurement activities;

(h) submit reports to the Government in respect of public procurement activities of

procuring agencies;

- (i) call any functionary of procuring agencies to provide assistance in its functions and call for any information from such agencies in pursuance of its objectives and functions;*
- (j) perform any other function assigned to it by the Federal Government or that is incidental or consequential to any of the aforesaid functions.”*

<https://www.ppra.org.pk/doc/ordinance2002.pdf>

Examples of the implementation

As above.

(b) Observations on the implementation of the article

Section 6 of the Law and Justice Commission of Pakistan Ordinance (1979) establishes a mechanism to periodically review relevant legal instruments and administrative measures against corruption, which are evaluated on an as-needed basis at the initiative of the Chair of NAB and heads of other bodies with a mandate to prevent corruption. The Cabinet Committee for Disposal of Legislative Cases reviews existing laws and associated legislation and is also mandated to take necessary actions and propose appropriate action on all issues relating to corruption.

Paragraph 4 of article 5

4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

NAB

- a. The Government of Islamic Republic of Pakistan has ratified the United Nations Convention against Corruption (“UNCAC”) since 2007 and regularly participates in conferences and other anticorruption related.
- b. The Government of Islamic Republic of Pakistan is also member of International Association of Anti-Corruption Authorities (“IAACA”) and has been an active member.
- c. The Government of Islamic Republic of Pakistan signed and ratified the Statute of Economic Cooperation Organization (“ECO”) Regional Centre for Cooperation of Anti-Corruption Agencies and Ombudsmen (“RCCACO”). It is a member of both. The RCCACO forum consists of ten member states of Central and Western Asia.
- d. The Government of Islamic Republic of Pakistan has joined assets recovery related global and regional forums including Global Focal Point Platform on Asset Recovery, which is supported by Interpol and StAR initiative and regional informal forum on asset recovery i.e Asset Recovery Inter-

agency Network on Asia Pacific (“ARIN-AP”) and Asset Recovery Inter-agency Network on West and Central Asia (“ARIN-WCA”).

e. The Government of Islamic Republic of Pakistan has close coordination with UNODC country office and working together for prevention of corruption through awareness, training and enforcement.

f. The Government of Islamic Republic of Pakistan is member of Asian Development Bank - OECD Anti-Corruption Initiative for Asia and the Pacific.

g. The Government of Islamic Republic of Pakistan is a member of Asia Pacific Group (“APG”) on Money-Laundering (“ML”).

h. The Government of Islamic Republic of Pakistan is a member OIC Anti-Corruption and Enhancing Integrity Forum (“ACEIF”).

i. The Government of Islamic Republic of Pakistan is a member of International Anti-Corruption Conference (“IACC”).

j. The Government of Islamic Republic of Pakistan participant in the Global Forum on Fighting Corruption and Safeguarding Integrity.

k. Pakistan is a member of the International Anti-Corruption Academy (“IACA”), Austria.

l. The Government of Islamic Republic of Pakistan is member Arab Forum on Asset Recovery.

m. Pakistan is a member of the Global Forum on Fighting Corruption and Safeguarding Integrity.

FBR

The Federal Board of Revenue (“FBR”) through Economic Affairs Division has expressed its interest in acquiring technical assistance from World Bank’s Stolen Asset Recovery Initiative in developing the specific skills of FBR officers in asset tracing, pursuing asset recovery cases and enhancing the organizational capacity of FBR to effectively detect, deter and recover the proceeds of corruption.

SECP

The Securities and Exchange Commission of Pakistan (“SECP”) is responsible for beneficial regulation of the capital markets, regulations of insurance industry and superintendence and control of corporate entities and for matters connected therewith and incidental thereto. SECP recognizing the importance of international cooperation and assistance among jurisdictions, in 2016, inserted a new independent Section 42D regarding international cooperation and assistance to foreign regulatory authority in the Act through SECP (Amendment) Act, 2016 (XXXVI of 2016) to address the concerns and needs of SECP’s on the subject of international cooperation and assistance. Section 42D of SECP (Amendment) Act, 2016 (XXXVI of 2016) authorizes the Commission to seek and provide assistance on reciprocal basis, to international regulators for assisting in any inquiry or investigation for contravention of laws relating to financial services. For effective regulation and supervision of securities and futures markets, SECP became member of the International Organization of Securities Commissions (IOSCO) since 1998.

IOSCO is the international body that brings together the world’s securities regulators and is recognized as the global standard setter for the securities sector. It develops implements and promotes adherence to internationally recognized standards for securities regulation. One of the important objectives of IOSCO is to enhance investor protection and promote investor confidence in the integrity of securities markets, through strengthened information exchange and cooperation

in enforcement against misconduct and in supervision of markets and market intermediaries. SECP also became a signatory to the Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (“IOSCO”) MMoU in 2011, which is endorsed as the benchmark for international cooperation thereby facilitating cross-border cooperation for effective enforcement of securities and futures markets laws, mitigating global systemic risk, protecting investors and ensuring fair and efficient securities markets. Following activities fall under the scope of IOSCO MMoU:

- Insider dealing and market manipulation;
- Solicitation and handling of investor funds and customer orders;
- Registration, issuance, offer or sale of securities and derivatives;
- The operations of markets, exchanges, clearing and settlement entities;
- Misrepresentation of material information and other fraudulent or manipulative practices relating to securities and derivatives; and
- The activities of market intermediaries, including investment and trading advisers who are required to be licensed or registered, collective investment schemes, brokers, dealers, and transfer agents.

For Insurance market, SECP is member of International Association of Insurance Supervisors (“IAIS”), an international body of insurance regulators with similar roles and functions as IOSCO performs for securities and futures markets.

Further, SECP is a member of following regional forum:

i. Capital Market Regulatory Forum (“COMCEC Forum”)

This forum was set up by the Standing Committee for Economic and Commercial Cooperation of the Organization of Islamic Cooperation (OIC). The forum aims to explore the possibilities and needs for cooperation among COMCEC member states and has four task forces in the areas of market development, capacity building, Islamic Finance and Financial Literacy.

ii. South Asian Securities Regulators Forum (“SASR Forum”)

The South Asian Association for Regional Cooperation is the regional intergovernmental organization and geopolitical union of nations in South Asia. The SASR forum, established in 2005 aims for increased mutual cooperation and exchange of information among the member countries.

iii. CAREC Capital Market Regulators Forum

The Central Asia Regional Economic Cooperation (“CAREC”) program is a partnership of 11 countries including Pakistan and development partners i.e. Asian Development Bank (“ADB”), International Monetary Fund (“IMF”) and World Bank to name a few. The program aims to promote development through cooperation leading to economic growth. The CAREC 2030 strategy has prioritized four operational clusters, encompassing both traditional and new areas of cooperation, these are:

- a) Economic and financial stability;
- b) Trade, tourism, and economic corridors;
- c) Infrastructure and economic connectivity; and
- d) Agriculture and water and Human development.

The economic and financial stability cluster envisaged that CAREC will support national banking and capital market regulators' needs to exchange data, intelligence, and develop and implement agreed common practices. CAREC will also promote reforms to attract greater private sector investment, including cross-border investment in member countries.

In addition, SECP has bilateral MoUs signed by SECP with foreign counterparts establish a framework for mutual assistance and to facilitate the exchange of information to ensure compliance with the authorities' respective securities and futures laws or regulatory requirements. The bilateral MoU's can be accessed at <<https://www.secp.gov.pk/about-us/bilateral-agreements/>>.

Currently, SECP is a signatory to the IOSCO MMoU, however SECP intends to submit application for becoming signatory to the IOSCO Enhanced Multilateral Memorandum of Understanding (EMMoU).

The significant advancements in technology witnessed by the financial markets entailed enhanced cooperation between the regulatory authorities. In this context, IOSCO has now established Enhanced Multilateral Memorandum of Understanding (EMMoU). The additional key powers that IOSCO has identified as necessary to ensure continued effectiveness in safeguarding market integrity and stability, protecting investors and deterring misconduct and fraud include:

- To obtain and share audit work papers, communications and other information relating to the audit or review of financial statements;
- To compel physical attendance for testimony (by being able to apply a sanction in the event of non-compliance);
- To freeze assets if possible, or, if not, advise and provide information on how to freeze assets, at the request of another signatory;
- To obtain and share existing internet service provider ("ISP") records (not including the content of communications) including with the assistance of a prosecutor, court or other authority, and to obtain the content of such communications from authorized entities; and
- To obtain and share existing telephone records (not including the content of communications) including with the assistance of a court, prosecutor or other authority, and to obtain the content of such communications from authorized entities.

Further, SECP being a member of the International Association of Insurance has also submitted its application for IAIS MMoU. The IAIS MMoU is a global framework for cooperation and information exchange between insurance supervisors. SECP's application is currently under validation at the IAIS Secretariat. SECP recognizing the importance of international cooperation and assistance among jurisdictions, in 2016, inserted a new independent Section 42D regarding international cooperation and assistance to foreign regulatory authority in the Act through SECP (Amendment) Act, 2016 (XXXVI of 2016) to address the concerns and needs of SECP's on the subject of international cooperation and assistance as identified by the International Organization of Securities Commissions ("IOSCO") Review Team ("RT") during the Country Assessment in 2015. The section authorizes the Commission to seek and provide assistance on reciprocal basis, to international regulators for assisting in any inquiry or investigation for contravention of laws relating to financial services.

In addition to being a signatory to the IOSCO MMoU, SECP has entered into bilateral agreements with the following:

- a. Australian Securities and Investments Commission;

- b. China Securities Regulatory Commission;
- c. European Securities Market Authority;
- d. Capital Markets Board (CMB) of Turkey;
- e. Directorate of Insurance, Under Secretariat of Turkey;
- f. Securities and Exchange Board of India;
- g. Emirates Securities & Commodities Authority (ESCA);
- h. Capital Market Authority Sultanate of Oman;
- i. Conseil Deontologique Valeurs Mobilières of Morocco;
- j. Jordan Securities Commission;
- k. Securities and Exchange Organization, Iran;
- l. The Bimeh Markazi Iran- Central Insurance of Iran;
- m. Maldives Monetary Authority;
- n. Royal Monetary Authority of Bhutan; and
- o. Securities and Exchange Commission of Sri Lanka
- p. Financial Conduct Authority (FCA), UK

As stated above, SECP is a signatory to the IOSCO MMoU. Further details regarding the IOSCO MMoU can be accessed at www.iosco.org <<http://www.iosco.org>>. In the last four years, SECP exchanged (incoming/outgoing) 69 requests for information/assistance with its foreign counterparts. Further, SECP has also developed guidelines for cooperation and assistance to foreign regulatory authorities, which provide a framework for international cooperation under section 42D of the SECP Act, 2016 and to stipulate formal mechanisms for sharing information and assistance under the Act or any administered legislation. The said guidelines can be accessed at <<https://www.secp.gov.pk/document/guidelines-for-cooperation-and-assistance-to-foreign-regulatory-authorities/?wpdmdl=29122>>.

The IOSCO principles provide an international benchmark for securities regulation practices against which progress of member jurisdictions towards effective regulation can be measured. IOSCO Assessment Committee (“IOSCO AC”) undertook a comprehensive Pakistan Country Review for assessing implementation of IOSCO Principles. Final Review was published after approval of IOSCO Board in July 2015. The review acknowledged progress achieved by the SECP since its last Financial Sector Assessment Program (“FSAP”) in 2004 while also sharing valuable recommendations to further improve Pakistan’s rating against international benchmarks. SECP took vigorous measures to address these recommendations through a comprehensive time-bound action plan and shared the consolidated progress report in June 2017 with IOSCO AC in the context of follow up country review of Pakistan reflecting the actions taken to address the IOSCO’s Review recommendations.

The IOSCO Review Team (“RT”) acknowledging substantial efforts made by SECP to ensure compliance with the IOSCO Principles enhanced SECP’s compliance rating against IOSCO Principles to 83% from 62% in 2015 review. The Country Follow up Review report for Pakistan was published by IOSCO in March 2018, which can be accessed at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD596.pdf>. Specifically, on principle 15 related to assistance to be provided to foreign regulators witnessed an upgrade in ratings by two levels i.e. Partly Implemented to Fully Implemented. The Review Team’s comments for principle 15 are reproduced below:

“It is rare for an upgrade by two levels (from Partly to Fully) but the evidence concerning this Principle is exceptional, particularly such a fundamental issue as cooperation. Despite the small number of foreign requests being received by the SECP, the fact that, as a result of a change in the Law, all those requests recently received have been satisfactorily dealt with, is sufficient to justify a revision of the benchmark. This new collaborative start should continue”.

Further, the RT’s assessment in 2015 available at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD495.pdf> acknowledged SECP’s commitment to domestic and international cooperation. The ratings for principles for cooperation i.e. principle 13 and principle 14 received were fully Implemented. The SECP Act empowers the SECP to share and disclose information with domestic counterparts. To facilitate cooperation and the exchange of information between financial market regulators, the SECP has signed MoU’s on cooperation and exchange of information with the State Bank of Pakistan and Federal Board of Revenue. SECP is also a member of the National Executive Committee and the General Committee constituted under the Anti-Money Laundering Act, 2010 with the SBP and collaborates with all the state authorities engaged in money laundering law enforcement.

Examples of the implementation

- a. Pakistan participated all the preventive events organized by UNODC and other international agencies at National and International level;
- b. Pakistan participated all the expert meeting on prevention organized by UNODC and being participated actively; and
- c. Data of requests for MLA (Incoming/Outgoing).

Data of Outgoing Requests for MLA - 2017 to 2019

Ser #	Year	No. of Requests Forwarded for MLA	Information Received
1.	2017	16	16
2.	2018	48	06
3.	2019	39	28
Total:		103	50

Incoming Requests for MLA

Total Number of Requests for MLA received from foreign jurisdictions	Total Number of Information forwarded	Under Process Incoming Requests for MLA
25	20	5

Meetings / Conferences / Events Pakistani / NAB Official during 2019

Sr. No.	Title	Date / Venue
1.	10 th Annual Conference and General Meeting of the International Association of Anti- Corruption Authorities (IAACA)	22-24 January 2019, Vienna, Austria
2.	Pakistan's Delegation for Visit to the Rule of Law and Anti-Corruption Centre (ROLACC)	30-31 January 2019 Doha, Qatar
3.	Invitation for nomination of officer to attend ARIN-WCA Steering Group Meeting.	13-14 March 2019 Bishkek (Kyrgyzstan)
4.	· 10 th Session of the UNCAC Implementation Review Group; · 13 th Annual Session of UNCAC Intergovernmental Working Group on Assets Recovery; · 8 th Session of the UNCAC Open-ended Intergovernmental Experts Meeting on international Cooperation; and · Training for Focal Points and Governmental Experts Participating in the Second Review Cycle of the UNCAC.	27-31 May 2019 Vienna, Austria
5.	Expert Meeting on Assets Return	07 - 09 May 2019 Addis Ababa, Ethiopia
6.	Training workshop on "Effective Asset Recovery Systems: Understanding Criminal and Civil Assets Recovery Legislation, Processes and Concepts Towards Effective International Cooperation".	21 - 23 May 2019, IssykKul, Kyrgyzstan
7.	Open-Source Intelligence for Financial Investigation and Asset Tracing.	15 - 22 June 2019, Tashkent - Uzbekistan
8.	Asset Recovery Inter-Agency Network West and Central Asia (ARIN-WCA). International Cooperation and Mutual Legal Assistance in Asset Recovery.	02 - 05 September 2019, Almaty Republic of Kazakhstan
9.	Second Asset Recovery Inter-Agency Network West and Central Asia (ARIN-WCA) Steering Group Meeting.	03 - 04 October 2019, Tashkent, Uzbekistan
10.	Regional Workshop on Financial Disruption of Illicit Financial Flows Associated with Transnational Organized Crime and Regional FIU to FIU Meeting.	21 - 22 November 2019 Almaty, Kazakhstan
11.	Pre-Conference event "Collaboration between Supreme Audit Institutions (SAIs) and Anti-Corruption Agencies.	14 - 15 December 2019, Abu Dhabi
12.	Eighth Session of the Conference of the States Parties to the UNCAC.	16 - 20 December 2019, Abu Dhabi
13.	Second resumed Tenth Session of the Implementation Review Group (IRG).	17 - 18 December 2019, Abu Dhabi
14.	ARIN-AP Annual General Meeting (AGM) and Workshop.	23 - 27 September 2019, Ulaanbaatar, Mongolia.

(b) Observations on the implementation of the article

Pakistan collaborates with other States and relevant international and regional organizations.

Article 6. Preventive anti-corruption body or bodies

Paragraph 1 of article 6

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:

(a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;

(b) Increasing and disseminating knowledge about the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

The following autonomous bodies/departments are working for prevention of corruption in Pakistan:

1. National Accountability Bureau (“NAB”) under National Accountability Ordinance (“NAO”), 1999;
2. Federal Investigation Agency (“FIA”), under FIA Act, 1974;
3. Anti - Corruption Establishments (“ACEs”) at all the four provinces of the Islamic Republic of Pakistan under The Prevention of Corruption Act (“PCA”), 1947;
4. Financial Monitoring Unit (“FMU”) under the Anti-Money Laundering Act (“AMLA”), 2010;
5. Federal Board of Revenue (“FBR”) under the Federal Board of Revenue Act, 2007;
6. Securities and Exchange Commission of Pakistan (“SECP”) under the SECP Act, 1997;
7. Public Procurement Regularity Authority (“PPRA”) under the PPRA Ordinance, 2002;
8. Election Commission of Pakistan (“ECP”) under the Elections Act, 2017;
9. State Bank of Pakistan (“SBP”) under SBP Act, 1956;
10. Auditor General of Pakistan (“AGP”), under the Auditor General's (Functions, Powers and Terms and Conditions of Service) Ordinance, 2001;
11. Controller General of Accounts (“CGA”), the Controller General of Accounts (Appointment, Functions and Powers) Ordinance, 2001;
12. Federal Ombudsman (Wafaqi Mohtasib), under the Federal Ombudsman Institutional Reforms Act, 2013;
13. Provincial (Mohtasib) Ombudsman, Punjab, under the Punjab Office of the Ombudsman Act 1997;
14. Provincial (Mohtasib) Ombudsman, Sindh, under the Establishment of the Office of Ombudsman for the Province of Sindh Act, 1991;
15. Provincial (Mohtasib) Ombudsman, Khyber Pakhtunkhwa, under the Khyber Pakhtunkhwa Provincial Ombudsman Act, 2010; and

16. Provincial (Mohtasib) Ombudsman, Balochistan, under the Establishment of the office of Ombudsman for the Province of Balochistan Ordinance, 2001.

NAB is mainly working on awareness and prevention of corruption in the Islamic Republic of Pakistan:

a. Awareness Procedure

NAB has been mandated vide Section 33C (a) and (b) of National Accountability Ordinance 1999, to accomplish awareness activities with the aim to transform the social fabric of the society from defiance to abhorrence against corruption. It involves building anti-corruption coalitions, positioning various aspects and dimensions of the menace of corruption into the lime light; building the image of NAB and requisite character traits, all the way through formal and informal media. Under its mandate of awareness, the message is conveyed to the whole community, from the highest level to the lowest level of every age group.

b. Prevention Procedures

According to Section 33B and 33C of National Accountability Ordinance 1999, NAB has been mandated to accomplish Prevention activities. Prevention Regime is classified as reformation through Constitution of Prevention Committees under Section 33C. In pursuance of Section 33C, Chairman NAB shall from time to time as he deems fit, constitute Prevention Committees for the reduction and elimination of corruption and corrupt practices. In pursuance of Section 33B regarding Reporting of Public Contracts all departments of Federal and Provincial Governments are bound to furnish a copy of any contract of the minimum monetary value of 50 million rupees or more to NAB.

i. Inauguration of Commemorative postal Stamp and Rupees 50 Coin

As part of the Divisions continuous efforts in creating Awareness amongst the public at large and involving people from all walks of life in the war against corruption, two initiatives were launched as step forward to renew the pledge and commitment of the government against corruption.

1. Postal Stamp; and
2. Rupees 50 Coin.

Both money and stamps are used by millions of Pakistani's on a daily basis, they both have high utility and circulation, by placing Anti-Corruption slogans on the them the Bureau aims to spread the slogans far and wide throughout Pakistan with the hope that it would create a sense of responsibility and self-accountability in the citizens of Pakistan which would ultimately make them join in the efforts of NAB against corruption. The Stamp and Coin were both presented by President of Islamic Republic of Pakistan on the International Anti-Corruption Day, 9th December, 2018 which took place at President House.

ii. Renewal of Memorandum of Understanding ("MoU") between National Accountability Bureau ("NAB) and Higher Education Commission ("HEC")

In order to eradicate corruption from society and sensitize the youth of Islamic Republic of Pakistan about the perils of corruption, HEC and NAB had signed a MoU on 4th November 2014, with a validity of 3 years. Under this MoU, HEC would support NAB in Awareness and Prevention activities by having Walks, Seminars, Lecturers, etc in educational institutes under its jurisdiction.

A&P Division coordinated with HEC for its renewal after clearance of all codal formalities and a signing ceremony was organized and held at HEC office in Islamabad. Deputy Chairman NAB and

officers of Awareness and Prevention Division attended the ceremony as the signatory on part of NAB. Chairman HEC and his team attended as the signatory on part of HEC.

iii. Study Tour by Group of Senior Trainees (BPS-17) of Training Institute of National Savings Islamabad.

As a part of their study tour a group of Senior Trainees of Training Institute of National Saving Islamabad visited NAB Office on 25th January 2018 in order to understand the working of the Bureau. The Additional Director (A&P) gave detail presentation related to Awareness and Prevention Activities undertaken by the Bureau.

iv. Awareness Campaign: International Anti-Corruption Day.

i. Islamabad Traffic Police & Motorway Police:

In order to spread awareness about corruption, Awareness and Prevention Division designed pamphlets for distribution amongst the public at large. For this initiative both Islamabad Traffic Police and Motorway Police were engaged for distributing pamphlets in Islamabad and on the Motorways. The initiative of NAB was very much appreciated by the general Public.

ii. Lecture on “Accountability in Public Service” in Pakistan at the Provincial Services Academy (PPSA), Peshawar

NAB was invited to deliver a lecture on “Accountability in Public Service” on 11th February 2019 to the officers of the 78th Pre-Service Course of Provincial Management Services and Excise & Taxation officers. DG (A&P) comprehensively explained the importance of accountability in Public Service and identified weaknesses / loopholes in the Public Service mechanism / delivery system. He stressed upon the formation of Internal Accountability Mechanism (IAM) in every government department to curb the menace of corruption from the country. The scope / mandate and role of NAB was highlighted on the occasion. He answered the questions in detail raised by the trainees.

iii. Dissemination of NAB Message through SMS:

Pakistan Telecom Authority (PTA) was approached by this Division to engage all telecom operators in Pakistan to spread the NAB awareness slogan “Our Faith, Corruption Free Pakistan” during the International Anti-Corruption Week.



iv. Dissemination of Anti-Corruption Slogans

A mass scale campaign for spreading anti-corruption slogan was undertaken by Awareness and Prevention Division of NAB by requesting all formations of the Government of Pakistan to place the slogan of “United against Corruption for a Prosperous Pakistan” on their respective websites.

v. Newsletter

In order to share the bi-annual progress of NAB’s activity with government institutions and general public, this Division is entrusted with this responsibility to prepare and publish the Newsletter and its distribution. A&P Division prepared two newsletters and distributed to all concerned.

vi. Publication of Newspaper Supplement

In order to aware the public at large about corruption, A&P Division on International Anti-Corruption day, 9th December published messages of the Hon’ble President of Islamic Republic of Pakistan, Chairman NAB and Secretary General of UN in newspapers through Media Cell

vii. Salient Awareness Activities

- Ø Printing of message “Say NO to Corruption” on Utility Bills, Driving Tenders Advertisements and NHA Letter Heads.
- Ø Displaying message “Say NO to Corruption” on Airport Screens and Motorway toll plazas.
- Ø Dissemination of the message “Say NO to Corruption” through Metro and Daewoo
- Ø Licenses, Postal Envelopes, Railway Tickets, NHA Publication of NAB HQ Newsletter biannually basis.

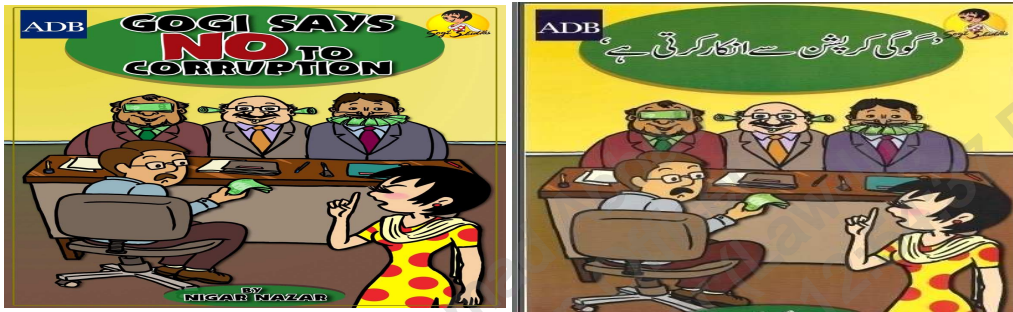
viii. “Say NO to Corruption” with National Highway Authority

NHA is extending its cooperation for spreading the message “Say NO to Corruption” on NHA website, Tender document, banners at toll plazas, Correspondence and toll tickets of toll plazas etc.

ix. “Say No to Corruption” Coloring Book For Children



x. “Say No to Corruption” Story Book For Children



xi. “Say NO to Corruption” message through Cellular Companies

xii. “Say No to Corruption” message through Utility Bills

xiii. “Say No to Corruption” message through ATMs

xiv. “Say No to Corruption” message on ID Card carrier paper - NADRA

xv. Message “Say NO to Corruption” on Tender Notices by the Government Departments

xvi. “Say No to Corruption” message on Driving Licenses

1. FBR

Federal Board of Revenue (“FBR”) takes pride in its cherished values which are:

- § Integrity
- § Professionalism
- § Teamwork
- § Courtesy
- § Fairness
- § Transparency
- § Responsiveness

Federal Board of Revenue aims at strengthening its revenue services through maximum facilitation to the taxpayers. It has made a special arrangement to directly receive representations U/S 7 of the FBR Act, 2007. The aggrieved persons are given the facility to submit advance copy of their representation online, if they prefer so. Subsequently a hard copy of representation along with the supporting documents may be sent to the Board.

Under the aforesaid arrangement, any person can make representation to the Chairman FBR, for redressal of grievance caused by the factors such as below:

1. any action done or taken for the enforcement of the fiscal laws, or
2. any notification issued by the Federal Government, or
3. any act of maladministration, corruption and misbehavior by any employee or officer of the Board,

4. any unnecessary delay or hardship caused due to any administrative process.

Section 7 of the FBR Act 2007, shall not apply to the applications where remedy is available in any existing law. This section provides administrative remedy to such grievances that cannot be redressed through any appellate forum. The Member FATE has been delegated the powers of section 7 of FBR Act, 2007.

Internal accountability is the integral part of development of an institution and its human resource. FBR has embarked upon establishing Integrity Management Cell & Performance Management Cell.

In order to analyze complaints of corruption, FBR has established a Complaint Scrutiny Committee (CSC) which shall ensure:

- i. That the complainant is verified and he / she confirms the contents of his / her complaint
- ii. To carry out necessary investigation to ascertain the authenticity of the complaint,
- iii. To furnish necessary recommendation to Council of Complaints (COC).

Moreover, to suggest further inquiry and proceedings, FBR has also notified Council of Complaints (COC) which has the following composition:

- i. Member (HRM)
- ii. Member (Customs Policy)
- iii. Members Concerned:

The following are the members concerned:

- a. Member IR-Ops in respect of Officers/Officials of IRS
- b. Member Customs Ops in respect of Officers/Officials of Customs
- c. Member Admin for Officers/Officials other than IRS/PCS

Council of Complaints (“COC”) shall ensure: -

- i. COC will consider the recommendations placed before it by CSC and will examine the relevant record.
- ii. COC may decide by a majority vote whether a complaint needs to be closed for want of substantial proof or it needs further action under Efficiency & Discipline Rules, 1973.
- iii. COC may finalize its findings / recommendations within 60 working days.

Following modes may be adopted to lodge complaints:

- § By directly calling helpline at 111-772-772 for information.
- § By visiting field offices of Inland Revenue & Pakistan Customs.
- § By sending an email at complaints@fbr.gov.pk
- § By filing complaint on FBR online portal

<http://crm.pral.com.pk:9090/corruption/complaints/index>.

§ By submitting either a hard copy of the complaint through post or meeting in person with Secretary (IMC), FBR (HQ), Constitution Avenue, Islamabad.

FBR has disseminated an elaborate code of conduct for all employees which contains guidelines and answers to the following questions:

- Should I accept a gift or some kind of favour from taxpayers?
- Can I borrow from a person who places me under any obligation to the donor?
- What to do when I am caught in an ethical dilemma?
- While performing my official duties, am I required to set aside my personal interest, likes and dislikes etc.?
- What if there is a conflict of interest between my official obligation and personal interest?
- The code of conduct attempts to provide answers and guidance on the above-mentioned questions.

2. The Controller General of Accounts

3. The policies to overcome corruption and corrupt practices are being implemented in the Controller General of Accounts (“CGA”) organization in collaboration with other institutions. The sensitization about prevention of corruption is also being done through these offices. No statistics are available. Policies, procedures, rules, regulations of Finance Department with respect to financial transactions, statements and account keeping are being implemented truly by CGA/AG Punjab Office.

Public Procurement Regulatory Authority (“PPRA”)

As stated previously, PPRA is a Regulatory Body having the mandate for the oversight and implementation of the rules, regulations, policies and instructions related to procurement of goods, works, and services.

For effective implementation of procurement laws Monitoring and Evaluation (M&E) framework for the procuring entities and suppliers/contractors for the public procurement is being developed that will provide an overview and operational mechanism of Monitoring & Evaluation (“M&E”) for complete procurement cycle i.e. from procurement planning till close-out of the contract. It shall also explain the different requirements and responsibilities and how the results from M&E will be extracted and used for planning, management, monitoring, review and communication in relation to public procurement.

Examples of the implementation

Following awareness and prevention activities have been carried out:

Number of Seminars / Workshops	625
Number of Prevention Committees formed / under process	34

Number of Character-Building Societies	40771
Number of contracts evaluated	8
Number of Newsletters issued	133

(b) Observations on the implementation of the article

NAB is the main national preventive anti-corruption body. All agencies and institutions at all levels are required to cooperate with it for the efficient implementation of the national anti-corruption strategy and associated action plan. The prevention methodology of NAB is mandated by the National Accountability Ordinance, which, inter alia, provides for the establishment of an awareness and prevention division and of prevention committees, focusing on specific topics and comprising NAB officers and individuals from relevant government agencies and organizations from the private and public sectors, as well as from civil society, as appropriate.

Other bodies with a mandate to prevent corruption include the Establishment Division (Regulation Wing) under the Office of the Prime Minister, the Federal Board of Revenue, the Federal Investigation Agency, the Federal Public Service Commission and provincial public service commissions, the Election Commission of Pakistan, the Controller General of Accounts, the Public Procurement Regulatory Authority, provincial anti-corruption establishments, federal and provincial ombudsmen and the Auditor General of Pakistan.

Paragraph 2 of article 6

2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

1. NAB

National Accountability Bureau (“NAB”) is a fully independent in its operations. With regards to the appointment of Chairman NAB and Prosecutor General Accountability they are appointed under the NAO, 1999 and they can only be removed as per removal of Judge of Supreme Court of Pakistan through Supreme Judicial Council under Article 209 of the Constitution of Islamic Republic of Pakistan; this enable the Chairman and Prosecutor General to work free from any undue influence or pressure.

Appointment of Chairman, National Accountability Bureau (“NAB”):

As per section 6 (b) of National Accountability Ordinance (“NAO”), 1999:

“6 (b) Chairman National Accountability Bureau:

(i). *There shall be a Chairman NAB to be appointed by the President in consultation with the Leader of the House and the Leader of the Opposition in the National Assembly for a non-extendable period of four years on such terms and conditions as may be determined by the President and shall not be removed except on the grounds of removal of Judge of Supreme Court of Pakistan [Provided that the present incumbent of the office of Chairman, NAB, shall complete the period of four years from the date of his initial appointment.].*

(ii). *The Chairman NAB may, in writing under his hand, addressed to the President, resign his office.*

(ba) *A person shall not be appointed as Chairman NAB unless he-*

(i). *is a retired Chief Justice or a Judge of the Supreme Court or a Chief Justice of a High Court, or*

(ii). *is a retired officer of the Armed Forces of Pakistan equivalent to the rank of a Lieutenant General; or*

(iii). *is a retired Federal Government Officer in BPS 22 or equivalent.*

Prosecutor General Accountability

8. (a) (i) *The President of Pakistan, in consultation with the Chairman NAB, may appoint any person, who is qualified to be appointed as a Judge of the Supreme Court, as Prosecutor General Accountability.*

(ii) *The Prosecutor General Accountability shall hold independent office on whole time basis and shall not hold any other office concurrently.*

(iii) *The Prosecutor General Accountability shall hold office for a [non-extendable] period of three years.*

(iv) *The Prosecutor General Accountability shall not be removed from office except on the grounds of removal of a Judge of Supreme Court of Pakistan.*

(v) *The Prosecutor General Accountability may, by writing under his hand addressed to the President of Pakistan, resign his office.]*

(b) *The Prosecutor General [Accountability] shall give advice to the Chairman NAB upon such legal matters and perform such other duties of a legal character as may be referred or assigned to him by the Chairman NAB and in the performance of his duties, he shall have the right of audience in all Courts established under this Ordinance and all other Courts [including the Supreme Court and a High Court] and Tribunals].*

(c) *The Prosecutor General Accountability, with the approval of Chairman NAB, may appoint Special Prosecutors to conduct prosecution of cases and to appoint advocates to institute or defend cases, appeals, petitions, applications and all other matters before any court or tribunal including the High Courts and Supreme Court in matters arising out of or relating to proceedings under this Ordinance.*

(d) *In case the Prosecutor General Accountability is absent or unable to perform the functions of his office due to any reason whatsoever, any other Law Officer of the NAB, duly authorised by the Chairman NAB, shall act as the Prosecutor General Accountability.”*

Link is available at <http://nab.gov.pk/Downloads/nao.asp>.

Chairman NAB is fully independent in taking operational and administrative decisions. All the

powers to carry out the functions rests with Chairman NAB. Only he has to submit NAB's annual report to the President of the Islamic Republic of Pakistan.

Other anticorruption agencies like FIA and ACEs are also independent at some levels.

2. FBR

The Committees established in Federal Board of Revenue ("FBR") as mentioned in Article 5 (2) above are completely independent.

3. SECP

In respect of regulated areas as stated in response to Article 5, paragraph 4, above, SECP has strong legal basis to independently act and perform related functions. The Securities and Exchange Commission of Pakistan Act, 1997 adequately empower SECP to perform required functions as independent regulator with support of necessary administrative legislations for regulated areas. Since SECP is a self-funded autonomous body established under a specialized law passed by the Parliament, hence it is able to maintain required resources including specialized staff and training of such staff to carry out respective functions.

In 2016, the independence of SECP has been further strengthened through an amendment to the SECP Act. Section 3(3) of the SECP Act now explicitly states that SECP will be administratively, financially and functionally independent and the Federal Government will use its best efforts to promote, enhance and maintain independence of the SECP. The SECP Act, 1997 (Section 5(7)) empowers the Federal Government to appoint one of the members of the Policy Board as its chair, who can either be from the private or the public sector members appointed on the Board.

The SECP observes that it has sufficient resources at its disposal in order to attract and retain qualified and able work force. In order to monitor, regulate and develop the securities market the SECP has a team comprising of qualified lawyers (LLB, LLM, BVC), Financial Analysts, Accountants (qualified CFA, CA, CPA, ACCA). SECP ensures that its staff receives adequate training and personal development opportunities in a scientific and measured manner for maximum value addition. An annual Training Needs Assessment plan is conducted by the HR department of the SECP. Based on the needs identified during the exercise the budget for training is finalized and made part of the SECP budget for approval. Both local and foreign trainings are thereafter identified for which suitable candidates are nominated.

Further, the Code of Conduct, in place since December 2015, requires the Members of the Board to comply with its provisions and upon the appointment of any new Member of the Board, he/she signs the declaration to abide by the requirements of the Code.

Public Procurement Regulatory Authority ("PPRA")

The independence of Regulatory Bodies is very essential for effective regulatory policies, regulations and their implementation. PPRA Ordinance 2002 was reviewed in pursuance of the powers conferred under Section-5(2) (b) &(c) of PPRA Ordinance 2002. The Authority reviewed the existing ordinance based on experience feedback of the Authority and in the light of the recommendations of the Wafaqi Ombudsman's Report titled 'Federal Ombudsman's Report on a New Regulatory Regime for Growth and Development in Pakistan'. This exercise stipulates regulatory independence since the Authority makes its own decisions and implement them without

undue interference from political authorities.

“5. *Functions and powers of the Authority.* -

(1) *Subject to other provisions of this Ordinance, the authority may take such measures and exercise such powers as may be necessary for improving governance, management, transparency, accountability and quality of public procurement of goods, services and works in the public sector.*

(2) *Without prejudice to the generality of the powers conferred by sub-section (1), the Authority may*

(a) *monitor application of the laws, rules, regulations, policies and procedures in respect of, or relating to, procurement;*

(b) *monitor the implementation of and evaluate laws, rules, regulations, policies and procedures in respect of, or relating to, inspection or quality of goods, services and*

(c) *recommend to the Federal Government revisions in or formulation of new laws, rules and policies in respect of or related to public procurement;*

(d) *make regulations and lay down codes of ethics and procedures for public procurement, inspection or quality of goods, services and works;*

(e) *monitor public procurement practices and make recommendations to improve governance, transparency, accountability and quality of public procurement;*

(f) *monitor overall performance of procuring agencies and make recommendations for improvements in their institutional set up;*

(g) *provide and coordinate assistance to procuring agencies for developing and improving their institutional framework and public procurement activities;*

(h) *submit reports to the Government in respect of public procurement activities of procuring agencies;*

(i) *call any functionary of procuring agencies to provide assistance in its functions and call for any information from such agencies in pursuance of its objectives and functions;*

(j) *perform any other function assigned to it by the Federal Government or that is incidental or consequential to any of the aforesaid functions.”*

<https://www.ppra.org.pk/doc/ordinance2002.pdf>

Examples of the implementation

None.

(b) Observations on the implementation of the article

Pursuant to the National Accountability Ordinance (sect. 6 (b)), the Chair of NAB is appointed by the President, in consultation with the leader of the House and the leader of the Opposition in the National Assembly, for a non-extendable period of four years on terms and conditions determined by the President. The Chair submits an annual report on the activities of NAB to the President. Pursuant to the Constitution (art. 209), the Chair cannot be removed except on the same grounds as those applicable to the removal of a judge of the Supreme Court. The President, in consultation with the Chair of NAB, may appoint any person who is qualified to be appointed as a judge of the Supreme Court as the Prosecutor-General for Accountability at NAB, and the removal procedure

for the post is the same as that for the Chair.

The degree of independence afforded to other government entities involved in the prevention of corruption in relation to exercising their mandates and the appointment and removal procedures for the head of each entity varies, with the President having the power to appoint and remove the heads of certain entities but not others. Although mandatory specialized training is provided, these government entities and NAB could benefit from more human and material resources in order to ensure that they are able to carry out their functions adequately.

Based on the information provided, it is recommended that Pakistan:

- (a) Ensure the necessary independence of NAB and other bodies with anti-corruption mandates, including by reviewing the appointment and removal procedures for their heads and other relevant high-level officials; and**
- (b) Ensure that NAB and other bodies with preventive anti-corruption mandates have adequate and sufficient resources to carry out their functions.**

Paragraph 3 of article 6

3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

NAB has been designated the responsibility of central authority under the Prevention Regime of UNCAC. The same has been communicated to the Secretary-General of the United Nations on 11th August 2007.

(b) Observations on the implementation of the article

Pakistan is compliance with this provision.

Article 7. Public sector

Paragraph 1 of article 7

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials:

- (a) That are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;*

(b) That include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;

(c) That promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;

(d) That promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

1. Establishment Division

The pre-partition Indian Civil Service, which was inherited by the Islamic Republic of Pakistan at the time of independence was officially known as the Imperial Civil Service. This was the elite higher civil service of the British Empire in British India during British rule between 1858 and 1947. They were appointed under Section XXXII (32) of the Government of India Act 1858, enacted by the Parliament of the United Kingdom of Great Britain. The Imperial Civil Service was headed by the Secretary of State for India, a member of the British cabinet. Officers were recruited by competitive examination and the strength of the Service was restricted to the number absolutely necessary to fill the supervising and controlling offices of the governing structure. At the time of the independence of India and Pakistan in 1947, the outgoing Government of India's, Indian Civil Service was divided between India and Pakistan. After independence, the Federal Public Service Commission ("FPSC") was established in Pakistan in 1947. The Federal Public Service Commission is a federal agency of Government of Pakistan that is responsible for the recruitment of civil servants/bureaucrats for Government of the Islamic Republic of Pakistan. It is a statutory body of the Government of the Islamic Republic of Pakistan, constituted in 1947 and it functions under the guiding principles of Articles 18, 25, 27, 34, 36, and 38 of the Constitution of the Islamic Republic of Pakistan, 1973 and under Section 7 of the Federal Public Service Commission Ordinance, 1977. The Central Superior Services (CSS; or Bureaucracy) is a permanent elite bureaucratic authority, and the civil service that is responsible for running the civilian bureaucratic operations and government secretariats and directorates of the Cabinet of Pakistan. In 1971, it was re-organized and re-established under "Chapter I: Part-XII, Article 240" of the Constitution of Pakistan which gave it foundation and constitutional status. The CSS Examinations are held at the start of every year. The exams are conducted and supervised by the Federal Public Service Commission. The basis of establishment of Civil Services of Federal Government has been provided in Article 242 and Article 240 of the Constitution of the Islamic Republic of Pakistan, 1973. Article 242 of the Constitution of the Islamic Republic of Pakistan, 1973 states:

"242. Public Service Commission. - (1) [Majlis-e-Shoora (Parliament)] in relation to the affairs of the Federation, and the Provincial Assembly of a Province in relation to the affairs of the Province, may, by law, provide for the establishment and constitution of a Public Service Commission.

[(1A) The Chairman of the Public Service Commission constituted in relation to the affairs of the Federation shall be appointed by the President [on the advice of Prime Minister].]

[(1B) The Chairman of the Public Service Commission constituted in relation to affairs of a Province shall be appointed by the Governor on advice of the Chief Minister.]

(2) A Public Service Commission shall perform such functions as may be prescribed by law.”

Further Article 240 of the Constitution of the Islamic Republic of Pakistan, 1973 states:

“240. Appointments to service of Pakistan and conditions of service. - Subject to the Constitution, the appointments to and the conditions of service of persons in the service of Pakistan shall be determined-

(a) in the case of the services of the Federation, posts in connection with the affairs of the Federation and All-Pakistan Services, by or under Act of [Majlis-e-Shoora (Parliament)]; and

(b) in the case of the services of a Province and posts in connection with the affairs of a Province, by or under Act of the Provincial Assembly.

Explanation. -In this Article, “All-Pakistan Service” means a service common to the Federation and the Provinces, which was in existence immediately before the commencing day or which may be created by Act of [Majlis-e-Shoora (Parliament)].”

The Establishment Division deals with Human Resource Management of the Federal Government. Allocation of Business" of Establishment Division under Rules of Business, 1973 (as amended up to June 12, 2017 is as follows:

“Establishment Division 1. Regulation of all matters of general applicability to civil posts in connection with the affairs of the Federation.

(i) Recruitment; (ia) Promotion;

(ii) Verification of character and antecedents;

(iii) Conduct and discipline; and

(iv) Terms and conditions of service (including re-employment after retirement) other than those falling within the purview of the Finance Division.

2. (i) Formation of Occupational Groups. (ii) Policy and administration of- (a) All-Pakistan Unified Grades; and (b) Office Management Group (Federal Unified Grades).

3. Policy regarding recruitment to various grades.

4. Grant of ex-officio status to non-Secretariat officers.

5. (i) Training in Public Administration. (ii) Matters relating to- (a) National School of Public Policy, Lahore; (b) National Institutes of Management Karachi, Quetta and Peshawar; (c) Pakistan Academy for Rural Development, Peshawar; and (d) Civil Services Academy, Lahore.

6. Federal Government functions in regard to the Federal Public Service Commission.

7. *General service matters, such as-*

(i) *Casual leave;*

(ii) *Office hours;*

(iii) *Liveries of Government servants;*

(iv) *Policy questions regarding association of Fed. Govt employees;*

(v) *List of persons debarred from future employment under Government.*

8. *Matters relating to- (i) Central Selection Board; (ii) Special Selection Board, except the Special Selection Boards constituted in the Divisions relating to selection of officers for posting in Pakistan Missions abroad. (iii) Selection Committee for Provincial Posts borne on All Pakistan Unified Grades; (iv) Omitted vide Cabinet Division Notification No.4-6/97-Min.I (SRO 135(I)/98) dated 3.3.1998.*

9. *(i) Career Planning; (ii) Instructions for writing and maintenance of Annual Confidential Reports on civil servants; (iii) Centralized arrangements in managing original or duplicate Annual Confidential Reports dossiers of officers.*

10. *(i) Staff Welfare; (ii) Federal Employees Benevolent Fund and Group Insurance Act, 1969. 40*

11. *Service Tribunals Act, 1973.*

12. *Administrative Reforms.*

13. *Administration of the Civil Servants Act, 1973, and the rules made thereunder.*

14. *To act as Management Consultants to the Federal Government and to undertake case studies to solve specific management problems utilizing techniques like PERT, CPM, system analysis, operations research and O&M.*

15. *Review of organizations, functions and procedures of the Divisions, attached departments, all other Federal Government offices and departments, autonomous organizations and taken over industries with the objective of improving their efficiency.*

16. *Periodical review of staff strength in the Divisions, attached departments and all other Federal Government Offices.*

17. *Initiation of proposals for simplification of systems, forms, procedures and methods for efficient and economic execution of Government business, minimizing public inconvenience and evolution of built-in safeguards against corruption.*

18. *Training of Government functionaries in techniques like O&M, CPM, PERT, systems analysis and operations research both within the country and abroad.*

19. *Promotion of the knowledge and use of O&M concepts, PERT and CPM techniques, systems analysis and operations research within all government offices and organizations.*

20. *Idea award scheme. 21. Pakistan Public Administration Research Centre.*

22. *(a) Reorganization of a Division or an attached department or a change in the status of an Attached Department. (b) Organization, on a permanent basis of a working unit in a Division other than as a Section.*

23. *Determination of the status of Government offices.”*

The Establishment Division also deals with proposes/ executes transfers/postings and services of the officer of following Occupation Groups falls under its administrative control:

- i. Pakistan Administrative Service of Pakistan (“PAS”);
- ii. Police Service of Pakistan (“PSP”);
- iii. Secretariat Group; and
- iv. Office Management Group (“OMG”).

The above-mentioned Occupational Groups are governed under Civil Servants Act, 1973. The appointment/recruitment is regulated by Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 and Federal Public Service Commission (Functions) Rules, 1978. Recruitment of Federal Service or posts at the entry point is made under prescribed Provincial/Regional quota through:

- i. Federal Public Service Commission (“FPSC”) for employees of Basic Pay-scale (BS) 16 and above; and
- ii. Ministries/Divisions/Department through Departmental Recruitment Committee for employees of BS-15 and below.

The initial recruitment/appointment to the above cadres in Basic Pay Scale-17 (BPS) being feeding posts of the above Occupational Groups is made by Federal Public Service Commission (“FPSC”) through competitive process. The successful candidates get specialized trainings from the Public Training Institutes meant for the purpose. After successful completion of specified training, their tenure-based transfer/posting is ensured in Federal Government as well as in Provincial Governments as per requirement.

In terms of Civil Servants (Appointment, promotion and transfer) Rules, 1973, Secretary Establishment Division is empowered to recruit the above employees of BS-17 to 19 and the appointment in BS-20 and above rests with the Prime Minister of Pakistan.

Further, the appointment of Heads of Autonomous Bodies/Organizations/ Companies/corporations/Bodies are made by the concerned Ministries/Divisions through Establishment Division as per provisions of their statutory Acts/Resolutions/Ordinances/Memorandum of companies of Corporations/Charters etc through Selection Boards/Committees. On the recommendations of the said Boards committees, a panel of three successful/shortlisted candidates are proposed by the concerned Ministry/Division for appointment to the Federal Government (Federal Cabinet) through Prime Minister for approval/decision.

It may be added that to strengthen efficiency, accountability and performance of Civil Servants, the existing policies in vogue are being reviewed. Federal Government has constituted a Task force Commission for Civil Service Reforms to address the deficiencies/flaws of Civil Service of Pakistan. However, it is learnt that Task Force Commission’s recommendations are underway.

Appointment / recruitment in NAB are also being done through FPSC. Special training is being imparted to all the newly recruited officers. Refresher courses and on job training is a part of professional growth in NAB.

TRAINING WING

A comprehensive system of pre-service and in-service trainings for civil servants is in place in the Federal Government to ensure “correct, honourable and proper performance of public functions” while enhancing the trainers’ awareness of the risks of corruption and importance of integrity for efficient and effective public service delivery. Pre-Service trainings include Common Training Programme and Specialized Training Programme whereas in service trainings include Mid-Career

Management Course (“MCMC”), Senior Management Course (“SMC”), and National Management Course (“NMC”)/ National Security and War Course (“NS&WC”). Pre-Service Training is mandatory and conducted immediately after joining the service. This is a general level training which comprises taught elements, basic research skills, Political economy debate public policy and a field secondment. In comprises of: -

- a. Common Training Programme (“CTP”): for Grade-17 officers appointed as probationers to the Civil Service Academy (“CSA”) in Lahore.
- b. Specialized Training Programme (“STP”): The CSA also hold a 20-week STP for PAS probationers. The other FUG cadres get STP at their relevant set-ups.

In-Service Training has three levels and usually starts after 7 to 10 years of joining the service.

- a. MCMC: The first formal training after pre-service training is the Mid-Career Management Course (MCMC). MCMC is mandatory for Grade 18 officers and the promotion to the next grade cannot happen until satisfactory completion of the course. The MCMC is held at National Institute of Management (“NIM”) at their campuses in Lahore, Karachi, Peshawar, Islamabad and Quetta.
- b. SMC: Post-MCMC, officers must do the Senior Management Course (“SMC”) usually in the next 3 to 5 years. Two courses are offered during the year and the course is mandatory requirement for promotion from grade 19 to 20.
- c. NMC: The final tier of training is the National Management Course (“NMC”) also held bi-annually at the campus in Lahore. The course is a mandatory requirement for promotion from grade 20 to 21. It can be substituted with NS&WC conducted by National Defense University (“NDU”).

In addition, foreign trainings are also offered to civil servants through Economic Affairs Division (“EAD”), to enhance their understanding and sensitivity toward corruption. Economic Affairs Division maintains an active web-site where all upcoming trainings along with their requirements and the procedure to apply is detailed.

Besides, various courses, workshops, conventions, symposium etc. are periodically conducted in which the importance of correct, honourable and proper performance of public functions and delivery of effective public service is/imparted to enhance their sensitivity toward such problems. The said training courses are periodically reviewed at appropriate fora as well.

2. Provincial Public Service Commission (All Provinces)

All the provinces have their own civil servant acts to regulate the conduct of government servants and eradication of corruption in the public sector from the respective provincial governments. These are as follows:

1. The Punjab Civil Servants Act, 1974

https://iota.punjab.gov.pk/system/files/THE%20PUNJAB%20CIVIL%20SERVANTS%20ACT%201974_0.pdf

2. The Sindh Civil Servants Act, 1973

<https://sindh.gov.pk/dpt/rules/C-S-ACT.pdf>

3. The Khyber Pakhtunkhwa Civil Servants Act, 1973

<http://kp.gov.pk/uploads/2016/03/8._The_Khyber_Pakhtunkhwa_Civil_Servants_Act,_1973_.pdf>

4. The Balochistan Civil Servants Act, 1974

<http://pabalochistan.gov.pk/pab/pab/tables/alldocuments/actdocx/2019-12-13_15:03:22_3da89.pdf>

Each province has its own independent Provincial Public Service Commission for recruitment and hiring of its employees. The civil service of the province and civil posts in connection with affairs of the province in basic pay scales 16 and above or equivalent and Posts in basic pay scale 11 to 15 or equivalent specified in certain Departments of the Provincial Government (except the District cadre posts. The Public Service Commission in every province is established under article 242 of the 1973 Constitution and is functional under its respective provincial acts of the parliament. These are as follows:

1. The Khyber Pakhtunkhwa Public Service Commission Ordinance, 1978

<<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/102079/123278/F-1210644414/PAK102079.pdf>>

2. The Punjab Public Service Commission Ordinance, 1978

<<http://punjablaws.gov.pk/laws/328.html>>

3. The Sindh Public Service Commission Act, 1989

<http://sindhlaws.gov.pk/setup/publications_SindhCode/PUB-15-000778.pdf>

4. The Balochistan Public Service Commission Act, 1989

<http://pabalochistan.gov.pk/pab/pab/tables/alldocuments/actdocx/2019-12-16_15:41:31_4079b.pdf>

The functions of Provincial Public Service Commissions are as follows:

(1) To conduct tests, examinations and interviews for recruitment to:

- (a) Such Provincial Services and posts connected with the affairs of the Province, as may be prescribed; and
- (b) Such posts in or under a Corporation or other body or organization set up by Government under any law, as may be prescribed;

(2) To advise the Government on such matters as may be prescribed relating to the terms and conditions of service of persons who are members of a Provincial Service or hold posts in connection with the affairs of the Province.

(3) Such other functions as may be prescribed by respective provincial government.

PPRA

Recruitment is sensitive matter and has far reaching effects on the capacity building on an organization, so that comprehensive mechanism containing selection methodology and befitting evaluation criteria for hiring the services of testing agency has been drafted on the basis of regulatory experience feedback. RFP document shall be notified after seeking formal approval from PPRA Board.

Examples of the implementation

Data of hiring / recruitment through FPSC in Quarter-I & Quarter-II 2019

Quarters	Cases/Requisition Finalized	Vacancies Finalized	Applications against Finalized cases	Candidates	Candidates Recommended	Unfilled	Withdrawn	Pending
I	43	100	9538	212	61	38	01	-
II	57	624	25596	1857	566	55	-	03
Total	100	724	35134	2069	627	93	01	03

Data of hiring / recruitment is available on following links;

<http://www.fpsc.gov.pk/publications>

[http://www.ppsc.gov.pk/\(S\(uh3qviz4ojunyzx0v1ittgkh\)\)/ppsc_publications.aspx](http://www.ppsc.gov.pk/(S(uh3qviz4ojunyzx0v1ittgkh))/ppsc_publications.aspx)

Data of hiring / recruitment in NAB is as below:

Year	Number of officers Recruited	Recruiting Agency
2003	51	FPSC and NAB
2005	16	NAB
2006	114	NAB
2007	54	NAB
2013	289	NTS and NAB
2015	110	NTS and NAB
2017	67	NTS and NAB

Data of Hiring / recruitment Establishment Division

Year	CSS	SOPE	PSP Encadrement
------	-----	------	-----------------

2016	193	0	0
2017	261	0	07
2018	281	26	0
2019	0	18	36
Total	735	44	43

Data of training from Establishment Division

Year	National Management Course/ National Security and War College	Senior Course	Management	Mid-Career Management Course
2017	153	310		410
2018	244	292		368
2019	19	327		429
Total	416	929		1207

(b) Observations on the implementation of the article

The structure of the civil service is established under article 240 (a) of the Constitution. Articles 18, 27, 34 and 36 of the Constitution are part of the Principles of Policy, which provide an overall framework for various government institutions to follow in the context of their respective mandates. Similarly, functions of the Federal Public Service Commission are set out in section 7 of the Federal Public Service Commission Ordinance, according to which the Commission is the highest constitutional body for recruitment within the Government in the categories “basic pay scale 16” and above.

The civil service was established by the Constitution, and the Federal Public Service Commission, the statutory body responsible for the recruitment of civil servants, functions in accordance with articles 18, 25, 27, 34, 36 and 38 of the Constitution and section 7 of the Federal Public Service Commission Ordinance.

The Central Superior Service is a permanent structure responsible for government operations. Civil servants are recruited through a competitive examination held every year, conducted and supervised by the Federal Public Service Commission, and vacancies are publicly announced and published.

The Establishment Division (Regulation Wing) under the Office of the Prime Minister is responsible for managing the human resources of the Government. Under its rules of business (1973), amended in 2021, the Division regulates all matters related to civil service posts, including recruitment, promotion, verification of character and antecedents, conduct and discipline, and terms and conditions of service. The Division defines the occupational groups, manages general service matters and matters relating to selection boards for different categories of post, and determines the status of government offices. It also proposes and carries out the transfer and posting of, and is responsible for services for, officers belonging to the administrative service, police, secretariat and office management occupational groups. The recruitment and appointment process for any given

position within the civil service depends on the basic pay scale for that position, and NAB has its own recruitment system.

There are rules pertaining to the selection, training and rotation, where appropriate, of special categories of public official (senior management positions) and positions considered especially vulnerable to corruption. Integrity checks are conducted when candidates are shortlisted for a post. Pakistan has a comprehensive system of pre- and in-service training for civil servants.

It is therefore recommended that Pakistan endeavour to identify public positions considered especially vulnerable to corruption and to adopt procedures for the selection, training and rotation, where appropriate, of individuals for such positions.

Paragraph 2 of article 7

2. Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

Election Commission of Pakistan

For the purpose of election to both Houses of Majlis-e- Shoora (Parliament), Provincial Assemblies and for election to the local governments and Cantonments, a permanent Election Commission ("ECP") has been constituted under Article 218 of the Constitution of Islamic Republic of Pakistan, 1973 ("Constitution"). The following functions/duties in terms of clause 3 of Article 218 and Article 219 of the Constitution have been conferred upon the ECP:

Article 218 of Constitution of Pakistan

"218. Election Commission. [(1) For the purpose of election to both Houses of Majlis-e-Shoora (Parliament), Provincial Assemblies and for election to such other public offices as may be specified by law, a permanent Election Commission shall be constituted in accordance with this Article.

(1) The Election Commission shall consist of-

(a) The Commissioner who shall be the Chairman of the Commission; and

(b) four members, one from each Province, each of whom shall be a person who has been a judge of a High Court or has been a senior civil servant or is a technocrat and is not more than sixty-five years of age, to be appointed by the President in the manner provided for appointment of the Commissioner in clauses (2A) and (2B) or Article 213.

(2) It shall be the duty of the Election Commission to organize and conduct the election and to make such arrangements as are necessary to ensure that the election is conducted honestly, justly, fairly and in accordance with law, and that corrupt practices are guarded against.

219. *Duties of Commission. The Commission shall be charged with the duty of-*

- (a) preparing electoral rolls for election to the National Assembly and the Provincial Assemblies, and revising such rolls annually;*
- (b) organizing and conducting election to the Senate or to fill casual vacancies in a House or a Provincial Assembly; and*
- (c) appointing Election Tribunals*
- (d) the holding of general elections to the National Assembly, Provincial Assemblies and the local governments; and*
- (e) such other functions as may be specified by an Act of Mailis-e-Shoora (Parliament)."*

The ECP constituted under abovementioned Article 218 of the Constitution, meets and fulfills its obligations/duties conferred upon it under clause 3 of Article 218 and 219 of the Constitution supra, in accordance with the provisions of the "Elections Act, 2017" (Act XXXIII of 2017, promulgated on 02.10.2017) and 'Election Rules, 2017' (framed on 09.11.2017 in exercise of rulemaking power under section 239 of the Act).

"239. Power to make rules. - (1) The Commission may, by notification in the official Gazette and publication on the website of the Commission, make rules for carrying out the purposes of this Act.

(2) The Commission shall make the Rules under sub-section (1) subject to prior publication and after hearing and deciding objections or suggestions filed within fifteen days of the publication."

(Eligibility of a candidate for holding any public office in the National Assembly of Pakistan, Senate and in the Provincial Assemblies)

For contesting elections to any public office in the National Assembly of Pakistan, Senate and in the Provincial Assemblies, certain qualifications and disqualifications have been provided/prescribed in the Constitution for the candidates. Articles 62 and 63 of the Constitution, provide such qualifications and disqualifications (may be perused at Flag-A).

"62. Qualifications for membership of Majlis-e-Shoora (Parliament)

(1) A person shall not be qualified to be elected or chosen as a member of Majlis-e-Shoora (Parliament) unless-

- (a) he is a citizen of Pakistan;*
 - (b) he is, in the case of the National Assembly, not less than twenty -five years of age and is enrolled as a voter in any electoral roll in-*
 - (i) any part of Pakistan, for election to a general seat or a seat reserved for non-Muslims;*
- and*

(ii) any area in a Province from which she seeks membership for election to a seat reserved for women.

(c) he is, in the case of Senate, not less than thirty years of age and is enrolled as a voter in any area in a Province or, as the case may be, the Federal Capital, from where he seeks membership;

(d) he is of good character and is not commonly known as one who violates Islamic Injunctions;

(e) he has adequate knowledge of Islamic teachings and practises obligatory duties prescribed by Islam as well as abstains from major sins;

(f) he is sagacious, righteous and non-profligate, honest and ameen, there being no declaration to the contrary by a court of law;

(g) he has not, after the establishment of Pakistan, worked against the integrity of the country or opposed the ideology of Pakistan.

(2) The disqualifications specified in paragraphs (d) and (e) shall not apply to a person who is a non-Muslim, but such a person shall have good moral reputation.”

“63. Disqualifications for membership of Majlis-e-Shoora (Parliament). (1) A person shall be disqualified from being elected or chosen as, and from being, a member of the Majlis-e-Shoora (Parliament), if-

(a) he is of unsound mind and has been so declared by a competent court; or

(b) he is an undischarged insolvent; or

(c) he ceases to be a citizen of Pakistan, or acquires the citizenship of a foreign State; or

(d) he holds an office of profit in the service of Pakistan other than an office declared by law not to disqualify its holder; or

(e) he is in the service of any statutory body or anybody which is owned or controlled by the Government or in which the Government has a controlling share or interest; or

(f) being a citizen of Pakistan by virtue of section 14B of the Pakistan Citizenship Act, 1951 (II of 1951), he is for the time being disqualified under any law in force in Azad Jammu and Kashmir from being elected as a member of the Legislative Assembly of Azad Jammu and Kashmir; or

(g) he has been convicted by a court of competent jurisdiction for propagating any opinion, or acting in any manner, prejudicial to the ideology of Pakistan, or the sovereignty, integrity or security of Pakistan, or the integrity, or independence of the judiciary of Pakistan, or which defames or brings into ridicule the judiciary or the Armed Forces of Pakistan, unless a period of five years has elapsed since his release; or

(h) he has been, on conviction for any offence involving moral turpitude, sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed since his release; or

(i) he has been dismissed from the service of Pakistan or service of a corporation or office set up or, controlled by the Federal Government, Provincial Government or a Local Government on the grounds of misconduct, unless a period of five years has elapsed since his dismissal; or

(j) he has been removed or compulsorily retired from the service of Pakistan or service of a corporation or office set up or controlled by the Federal Government, Provincial Government or a Local Government on the grounds of misconduct, unless a period of three years has elapsed since his removal or compulsory retirement; or

(k) he has been in the service of Pakistan or of any statutory body or anybody which is owned or controlled by the Government or in which the Government has a controlling share or interest, unless a period of two years has elapsed since he ceased to be in such service; or

(l) he, whether by himself or by any person or body of persons in trust for him or for his benefit or on his account or as a member of a Hindu undivided family, has any share or interest in a contract, not being a contract between a cooperative society and Government, for the supply of goods to, or for the execution of any contract or for the performance of any service undertaken by, Government:

Provided that the disqualification under this paragraph shall not apply to a person-

(i) where the share or interest in the contract devolves on him by inheritance or succession or as a legatee, executor or administrator, until the expiration of six months after it has so devolved on him;

(ii) where the contract has been entered into by or on behalf of a public company as defined in the Companies Ordinance, 1984 (XLVII of 1984), of which he is a shareholder but is not a director holding an office of profit under the company; or

(iii) where he is a member of a Hindu undivided family and the contract has been entered into by any other member of that family in the course of carrying on a separate business in which he has no share or interest; or

Explanation. - In this Article "goods" does not include agricultural produce or commodity grown or produced by him or such goods as he is, under any directive of Government or any law for the time being in force, under a duty or obligation to supply; or

(m) he holds any office of profit in the service of Pakistan other than the following offices, namely:

(i) an office which is not whole-time office remunerated either by salary or by fee;

(ii) the office of Lumbardar, whether called by this or any other title;

(iii) the Qaumi Razakars;

(iv) any office the holder whereof, by virtue of such office, is liable to be called up for military training or military service under any law providing for the constitution or raising of a Force; or

(n) he has obtained a loan for an amount of two million rupees or more, from any bank, financial institution, cooperative society or cooperative body in his own name or in the name of his spouse or any of his dependents, which remains unpaid for more than one year from the due date, or has got such loan written off; or

(o) he or his spouse or any of his dependents has defaulted in payment of government dues and utility expenses, including telephone, electricity, gas and water charges in excess of ten thousand rupees, for over six months, at the time of filing his nomination papers; or

(p) he is for the time being disqualified from being elected or chosen as a member of the Majlis-e-Shoora (Parliament) or of a Provincial Assembly under any law for the time being in force.

Explanation. - For the purposes of this paragraph "law" shall not include an Ordinance promulgated under Article 89 or Article 128.

(2) If any question arises whether a member of the Majlis-e-Shoora (Parliament) has become disqualified from being a member, the Speaker or, as the case may be, the Chairman shall, unless he decides that no such question has arisen, refer the question to the Election Commission within thirty days and if he fails to do so within the aforesaid period it shall be deemed to have been referred to the Election Commission.

(3) The Election Commission shall decide the question within ninety days from its receipt or deemed to have been received and if it is of the opinion that the member has become disqualified, he shall cease to be a member and his seat shall become vacant.]”

In the furtherance of Articles 62 & 63 above, section 231 of the Elections Act, 2017 provides that the qualifications and disqualifications for a person to be elected or chosen or to remain a Member of the Mailis-e-Shoora a (Parliament) or a Provincial Assembly shall be as such as are provided in Articles 62 & 63.

Section 231 of the Elections Act, 2017

“231. Qualifications and disqualifications. - The qualifications and disqualifications for a person to be elected or chosen or to remain a Member of the Majlis-e-Shoora (Parliament) or a Provincial Assembly shall be such as are provided in Articles 62 and 63.”

The candidature of such candidate is always subject to strict scrutiny by the Returning Officer and objection from the other contesting candidates of a constituency. At any stage, if found by the ECP that the candidate contesting for the said public office, at the time of filing of his nomination papers was not qualified to hold such public office or on being elected at such public office has incurred any disqualification, the ECP in exercise of its powers under Article 218(3) read with Article 62 & 63 supra of Constitution of the Islamic Republic of Pakistan, can disqualify said candidate from holding said public office.

Apart from above, the candidature of a candidate at the first instance is challengeable by any contesting candidate before the concerned 'Returning Officer' under section 62 of the Elections Act, 2017 and secondly an Appeal can be filed under section 63 of the Act *ibid* before the Appellate Tribunal constituted by the ECP for the said purpose. Similarly, after election, the election of a 'returned candidate' is challengeable by a contesting candidate under section 139 of the Act *ibid* through an Election Petition before the Election Tribunal constituted by the ECP for the said purpose.

Section 139 of the Elections Act, 2017

“139. Election petition. (1) No election shall be called in question except by an election petition

filed by a candidate for that election.

(2) In this Chapter-

(a) 'corrupt or illegal practice' means a 'corrupt practice' or an 'illegal practice' as defined in Chapter X;

(b) 'petitioner' means the candidate who has filed an election petition; and

(c) 'respondent' means a person joined as respondent in the election petition under section 143."

(Eligibility of a candidate for holding any public office in the Local Government or Cantonment)

Similarly, for the candidates seeking membership of public office of a local government in a Province or the Cantonment, the qualifications/disqualifications have been provided in the respective local government laws i.e. Local Government Acts and Rules.

In the furtherance of qualifications and disqualification provisions contained in a Local Government Act, section 225(2) of the Elections Act, 2017 *ibid* provides that the qualifications and disqualifications of a candidate in a local government election or a Member of a local government shall be decided under the applicable local government law. At any stage, if found by the ECP that the candidate contesting for the said public office, was not qualified to hold such public office or on being elected at such public office has incurred any disqualification, the ECP in exercise of its powers under Article 218(3) *supra* read with enabling provisions of the respective local government law, can disqualify said candidate.

Section 225 of the Elections Act, 2017

"225. Appeal against scrutiny order. (1) A candidate or the objector may, within the time specified by the Commission, file an appeal against the decision of the Returning Officer rejecting or accepting a nomination paper to an Appellate Tribunal constituted for the constituency consisting of a person who is a District and Sessions Judge or an Additional District and Sessions Judge appointed by the Commission in consultation with the Chief Justice of the High Court.

(2) An Appellate Tribunal shall summarily decide an appeal filed under sub-section (1) within such time as may be notified by the Commission and any order passed on the appeal shall be final.

(3) If the Appellate Tribunal is not able to decide the appeal within the time fixed by the Commission under sub-section (2), the appeal shall abate and decision of the Returning Officer shall be final."

The ECP in exercise of its powers under the Constitution, Elections Act and the Local Government Laws, has disqualified many public office holders who were not qualified to hold that office or incurred any disqualification under the law.

As discussed above, it is the duty and mandate of the ECP to ensure that the elections to a National Assembly, Senate, Provincial Assembly, Local Government and Cantonment, are conducted honestly, fairly, justly and in accordance with the provisions of the Elections Act and Rules and corrupt practices are guarded against. For bringing and ensuring transparency in the election

process, the Constitution and the Elections Act including but not limited to the following guidelines and parameters:

“Article 226 of the Constitution: -

Elections by secret ballot

226. All elections under the Constitution, other than those of the Prime Minister and the Chief Minister, shall be by secret ballot.”

The other sections of the Elections Act, 2017 are as follows:

“4. Power to issue directions. -

(1) The Commission shall have the power to issue such directions or orders as may be necessary for the performance of its functions and duties, including an order for doing complete justice in any matter pending before it and an order for the purpose of securing the attendance of any person or the discovery or production of any document.

(2) Any such direction or order shall be enforceable throughout Pakistan and shall be executed as if it had been issued by the High Court.

(3) Anything required to be done for carrying out the purposes of this Act, for which no provision or no sufficient provision exists, shall be done by such authority and in such manner as the Commission may direct.

8. Power of Commission to ensure fair election.

Save as otherwise provided, the Commission may-

(a) stop the polls at one or more polling stations at any stage of the election if it is convinced that it shall not be able to ensure the conduct of the election justly, fairly and in accordance with law due to large scale malpractices, including coercion, intimidation and pressures, prevailing at the election,

(b) review an order passed by an officer under this Act or the Rules, including rejection of a ballot paper; and

(c) issue such instructions, exercise such powers and make such consequential orders as may in its opinion, be necessary for ensuring that an election is conducted honestly, justly, fairly and in accordance with the provisions of this Act and the Rules.

9. Power of the Commission to declare a poll void. (1)

Notwithstanding anything contained in this Act, if, from facts apparent on the face of the record and after such enquiry as it may deem necessary, the Commission is satisfied that by reason of grave illegalities or such violations of the provisions of this Act or the Rules as have materially affected the result of the poll at one or more polling stations or in the whole constituency including implementation of an agreement restraining women from casting their votes, it shall

make a declaration accordingly and call upon the voters in the concerned polling station or stations or in the whole constituency as the case maybe, to recast their votes in the manner provided for bye-elections

13. Measures for training and public awareness.

The Commission shall, from time to time as it may deem fit, -

(a) conduct training programs for election officials including officials of the Commission, any Government or corporations, and autonomous or semi-autonomous bodies controlled by any of these Governments and officers from the judiciary, if any, deputed or selected in connection with an election in accordance with procedure laid down under this Act or the Rules;

(b) advise public authorities, educational and training institutions regarding programmes and measures to promote dissemination of knowledge regarding electoral laws and best practices;

(c) conduct public awareness programmes and media campaigns, regarding the importance of maximum voter enrolment and participation in elections, especially by women, dissemination of information regarding procedure of casting vote, and the importance of maintaining the integrity of the electoral process; and

(d) examine laws, rules and regulations in force which are relevant to the conduct of elections and recommend to the Federal Government amendments in such laws, rules or regulations, as the case maybe, in order to increase transparency and fairness and eliminate corrupt practices.

13. Establishment of results management system. -

(1) The Commission shall establish a transparent results management system for expeditious counting, tabulation, compilation, transmission, dissemination and publication of results in the official Gazette and on the website of the Commission.

77. Polling agent. -

(1) The contesting candidate or his election agent may, before the commencement of or during the poll, appoint for each polling station as many polling agents as maybe prescribed and shall give notice in writing to the Presiding Officer communicating the appointment.

81. Election by secret ballot. -

(1) An election under this Act shall be ballot and, subject to the provisions of and 103, every voter shall cast his vote held by secret sections 93, 94 by inserting, in accordance with the provisions of this in the ballot box, a ballot paper in the prescribed form.

(2) The Presiding Officer shall make such arrangements at the polling station that every voter may be able to secretly mark his ballot paper before folding and inserting it in the ballot box.

83. Maintenance of order at the polling station. -

(1) The Presiding Officer shall keep order at the polling station and may remove or cause to be removed any person who misconducts himself at a polling station or fails to obey any lawful orders of the Presiding Officer.

139. Election petition. -

(1) No election shall be called in question except by an election petition filed by a candidate for that election. (2)

140. Appointment of Election Tribunals. -

(1) For the trial of election petitions under the Commission shall appoint as many Tribunals as may be necessary for swift of election petitions.

233. Code of Conduct. -

(1) The Commission shall, in consultation with political parties, frame a Code of Conduct for political parties, contesting candidates, election agents and polling agents.

(2) The Commission shall also frame a Code of Conduct for security personnel, media and election observers.

(3) A political party, a candidate, an election agent, a polling agent, security personnel, media and an observer shall follow the Code of Conduct during an election.

(4) The Commission shall publish a Code of Conduct framed under this section in the official Gazette and on its website

234. Monitoring of election campaign.

(1) The Commission shall constitute a monitoring team consisting of such number of persons as may be determined by it, to monitor election campaign of the candidates and political parties and report, on regular basis in the prescribed manner, to an officer nominated by the Commission in respect of each district for the purpose of deciding the complaints regarding any violation by a candidate or a political party of any provision of the Act, Rules or the Code of Conduct issued by the Commission.

238. Election observers - (1) The Commission, at its own motion or upon an application made in this behalf, may allow any domestic or international election observation organization to observe the process of conduct of election, having an access to polling station, counting of votes and consolidation of results. ”

Apart from the above provisions, there are so many other provisions contained in the Elections Act which have been made for the purposes of bringing transparency in the election process.

The ECP under the Elections Act is empowered to punish any person on account of violations of the provisions of the Elections Act, the Code of Conduct or the instructions/directions issued by it. The District Monitoring Officers appointed by the Commission were authorized and mandated to impose penalty on candidates who were found involved in the process of violation of the Code of Conduct or the Elections Act.

Moreover, the ECP has also filed Criminal Complaints before the Sessions Judge, against the

candidates who were found involved in illegal and corrupt practices defined in Chapter X of the Elections Act.”

Examples of the implementation

Data of General Election 2018

Assembly	Total Number of Seats	General Seat	Women Quota	Minority Quota
National Assembly of Pakistan	342	272	60	10
Provincial Assembly, Punjab	371	297	66	8
Provincial Assembly, Sindh	168	130	29	9
Provincial Assembly, Khyber Pakhtoonkhawa	124	99	22	3
Provincial Assembly, Balochistan	65	51	11	3
Total	1070	849	188	33

(b) Observations on the implementation of the article

The permanent Election Commission of Pakistan was established under article 218 of the Constitution for elections to both houses of the Parliament and to provincial assemblies, local governments and cantonments. Criteria concerning candidature for and election to the National Assembly, the Senate and provincial assemblies are regulated in the Constitution. A candidate who does not fulfil the qualifications for public office as stipulated in the Constitution may be disqualified by a competent forum pursuant to the Constitution (arts. 62 and 63). Persons who have been convicted of any offence under the Elections Act (2017) or found guilty of any corrupt or illegal practice are subject to disqualification.

Paragraph 3 of article 7

3. Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

The Election Commission of Pakistan has taken the following steps to enhance transparency in funding of candidature for elected public office and the funding of political parties according to the Elections Act, 2017 passed by National Assembly and the Election Rules prepared by ECP.

“Section 132. Restriction on Election Expenses:

The said section provides the limit of election expenses for a candidate during election for

giving level playing ground for all the candidates participating in elections.

The Election expenses of contesting candidate shall not exceed

- a) *One million and five hundred thousand rupees for election to a seat in the Senate*
- b) *Four million rupees for election to a seat in the National Assembly; and*
- c) *Two million rupees for election to a seat in a Provincial Assembly.”*

“132. Restriction on election expenses. - (1) The election expenses of a candidate shall include the expenses incurred by any person or a political party on behalf of the candidate or incurred by a political party specifically for the candidate.

(2) Where any person incurs any election expenses on behalf of a candidate, whether for stationery, postage, advertisement, transport or for any other item, such expenses shall be deemed to be the election expenses incurred by the candidate himself.

(3) The election expenses of a contesting candidate shall not exceed-

- (a) one million and five hundred thousand rupees for election to a seat in the Senate;*
- (b) four million rupees for election to a seat in the National Assembly; and*
- (c) two million rupees for election to a seat in a Provincial Assembly.*

(4) A candidate shall, through bills, receipts and other documents, vouch for every payment made in respect of election expenses, except where the amount is less than one thousand rupees.

(5) If election expenses of a candidate are disputed, the Commission may conduct an enquiry to ascertain whether the election expenses, incurred by any person other than the candidate, were incurred with his permission and if the expenses were incurred without his permission, it would not be deemed to be election expenses on behalf of the candidate.”

Furthermore, section 211 of the Elections Act, 2017 bounds all political parties those contested elections to provide details of campaign finance including name of donors who contributed/donated an amount equal to or more than one hundred thousand rupees to the political party for its election campaign expenses.

Moreover, as far as implementation of above-mentioned measures are concerned, the ECP takes steps in accordance with Sections of the Elections Act, 2017 for the free, fare and transparent elections.

“211. Campaign finance. - (1) A political party shall furnish to the Commission the list of contributors who have donated or contributed an amount equal to or more than one hundred thousand rupees to the political party for its election campaign expenses.

(2) A political party shall furnish to the Commission details of the election expenses incurred by it during a general election.

Examples of the implementation

At present there are cases against all major political parties with regards to funding of election campaign pending at the ECP. The ECP has asked the members of the Parliament and provincial assemblies to submit to the ECP by December 31, 2019, the yearly statements of assets and

liabilities, including their spouse and dependent children as on the preceding thirtieth day of June on Form-B being a mandatory requirement under Section 137 of the Elections Act, 2017, which is reproduced here:

“137. Submission of statement of assets and liabilities. -

(1) Every Member of an Assembly and Senate shall submit to the Commission, on or before 31st December each year, a copy of his statement of assets and liabilities including assets and liabilities of his spouse and dependent children as on the preceding thirtieth day of June on Form B.

(2) The Commission, on the first day of January each year through a press release, shall publish the names of Members who failed to submit the requisite statement of assets and liabilities within the period specified under sub-section (1).

(3) The Commission shall, on the sixteenth day of January, by an order suspend the membership of a Member of an assembly and Senate who fails to submit the statement of assets and liabilities by the fifteenth day of January and such Member shall cease to function till he files the statement of assets and liabilities.

(4) Where a member submits the statement of assets and liabilities under this section which is found to be false in material particulars, he may, within one hundred and twenty days from the date submission of the statement, be proceeded against for committing the offence of corrupt practice.”

The prescribed form along with instructions/guidelines prepared in this regard can be obtained free of cost from the Election Commission Secretariat, Islamabad, offices of Provincial Election Commissioners in each province, Senate Secretariat, National Assembly Secretariat and secretariats of provincial assemblies.

(b) Observations on the implementation of the article

The funding of candidatures for elected public office and political parties is regulated in the Elections Act and by election rules prepared by the Election Commission of Pakistan, with notices issued in case of non-compliance. The Elections Act regulates the duties of political parties concerning, inter alia, accounting and bookkeeping. Political parties are required to restrict election expenses and to provide the Election Commission of Pakistan with a list of contributors who have donated an amount equal to or more than 100,000 Pakistan rupees (approximately \$450) to the political party, and only natural persons may contribute such an amount. Section 211 of the Election Act provides that all financial reports submitted by candidates are open to inspection by any person for a fee. Although anonymous donations of more than 100,000 Pakistan rupees are explicitly prohibited pursuant to section 211 of the Elections Act, the authorities confirmed that in practice this extends to all fees, contributions or donations made by a member or a supporter of a political party, which should be duly recorded by that political party according to section 204 of the same Act. The Act provides for penalties, including for corrupt practices, bribery and undue influence in connection with elections. It also provides for the auditing of the annual accounts of each political party by a chartered accountant, who authenticates the prescribed consolidated statement of accounts for that party for the financial year and provides a professional opinion on the accounts.

The Election Commission of Pakistan scrutinizes each consolidated statement of accounts and publishes it in the official gazette. Political parties that do not comply with the accounting and bookkeeping requirements are not eligible to obtain an election symbol for contesting elections for Majlis-e-Shoora (the Parliament), provincial assemblies or local government (sect. 15 of the Elections Act).

Paragraph 4 of article 7

4. Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

Election Commission of Pakistan has taken the following steps for ensuring the system of transparency and prevention of conflict of interest among all stakeholders:

- i. Limitations on election expenses of all contesting candidates including returned candidates;
- ii. Limitation on campaign finance of political parties during elections;
- iii. Scrutiny of annual statements of assets and liabilities (Form-B) of parliamentarians (<https://www.ecp.gov.pk/documents/confidentialwing2019/Statement%20of%20Assets%20and%20Liabilities%20Form-B.pdf>); and
- iv. Scrutiny of consolidated statement of account (Form-D) of all political parties (<https://www.ecp.gov.pk/documents/confidentialwing2019/Statement%20of%20Party%20Accounts%20Form-D%20and%20Sources%20of%20Funds.pdf>).

(b) Observations on the implementation of the article

Pakistan has adopted a framework for the management of conflicts of interest of civil servants, provided for under the Civil Servants Act (1973), the Government Servants (Conduct) Rules (1964) and the Government Servants (Efficiency and Discipline) Rules (1973, amended in 2020). The Government Servants (Conduct) Rules allow for the management of private companies and banks, as well as private trade or employment, by civil servants with the prior permission of the Government. The framework is honour-based, with responsibility for the reporting of conflicts of interest resting with the individual and the possibility for any other individual who identifies a conflict to file a complaint. The framework provides for disciplinary measures, which can be applied to all those serving in a civil capacity in connection with the affairs of the Government and the All-Pakistan Service during their employment within provincial governments. Rule 15 of the Government Servants (Conduct) Rules prescribes that “no Government servant shall, except with the previous sanction of the Government, take part in the promotion, registration or management of any bank or company”.

Based on the information provided, it is recommended that Pakistan consider strengthening

the system for the identification and management of conflicts of interest.

Article 8. Codes of conduct for public officials

Paragraph 1 of article 8

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

1. NAB

NAB has its own code of conduct.

2. The core values of NAB's Code of Conduct

• Integrity

To do the right thing the right way and at the right time

Being honest and responsible

Focus on what is right for both the organization and the society

• Honour

Self-respect

Dignity

High moral and ethical standards

• Dedication

Commitment to cause

Sincerity of purpose

• Dependability

Reliable in performance of duty

Absolute trustworthiness

Responsible for the assigned job

• Judgment

Weighing facts for the right course of action

Sound decisions, without missing the details

- Tact

Completion of task without generating hostility

Courtesy and respect to others

Discreet to avoid embarrassments or defamation

- Courage

Ability to do what needs to be done regardless of fear or risk

Resolute and firm in dispensing one's duty

Overcome difficulty with dignity

- Proactive

Ability to foresee the problem

Initiative to suggest the right action

- Justice

Being impartial and consistent to apply reward and punishment

Fair in discharge of duties

Avoiding favouritism and nepotism

3. The principles guidelines of the Code of Conduct are as follows:

The Code of Conduct and Ethics is guided by the following principles, which should also assist you in guiding your conduct and taking decisions in your day to day work:

- At all times, you should be aware that your employment carries an obligation to have due regard to the impact of your professional and personal conduct on NAB's standing and reputation.
- At a minimum, you must meet the standards of ethical behavior and accountability that NAB promotes in its dealings with other organizations and individuals.
- You have an obligation to carry out your work professionally, impartially, with integrity and in the best interests of the society at large, keeping in view the constitutional principles of policy.
- You are also required to deal with individuals and organizations fairly, recognizing their rights as citizens. Discrimination and partiality, either within NAB or in dealings with people and organizations outside NAB, constitutes violation of the constitutional fundamental rights of people.
- The name and powers of NAB must be used with restraint, and with an awareness of their potential effect upon others. These must never be used to gain personal advantage or pursue personal issues.
- The work of NAB must not be compromised or affected by any personal interest.
- Public resources must be used efficiently and effectively.
- The security of information about the persons working with or dealing with NAB must be

considered.

· When confronted with an issue of ethics and conduct, you are obliged to be mindful of the principles and guidance provided in this Code. If still uncertain about what course of action to take, advice should be sought from appropriate officer of NAB. When you are faced with an ethical dilemma, ask yourself the following questions:

- a. Is it legal?
- b. Is it consistent with NAB's values, principles and policies?
- c. Do I think it is the right thing to do?
- d. What will be the consequences of my decisions and actions for my colleagues, NAB, other parties, and myself?
- e. Can I justify my actions?
- f. What would be the reaction of my family and friends if they were to find out?
- g. What would happen if my conduct becomes front page news?

http://nab.gov.pk/Downloads/Code_of_Conduct.asp

4. Establishment Division

The Civil Servants Act, 1973

As already discussed in detail as above. The link is provided below:

<http://anf.gov.pk/library/law/pakistan_civil_servants_act_1973_eng.pdf>

The Government Servants (Conduct) Rules, 1964

As already discussed in detail as above. The link is provided below:

<https://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Pakistan_Government%20Servants%20Conduct%20Rules_1964_en.pdf>

Pakistan has very exhaustive rules regarding code of conduct of public officials. These rules apply to every person, whether on duty or on leave, within or without Pakistan, serving in a civil capacity in connection with the affairs of the Centre and to the members of an All-Pakistan Service during their employment under the Provincial Governments or while on deputation with any other Government, agency, institution or authority.

All the four provinces have also their own conduct rules for public officials which are applicable to all the officials working under relevant Provincial Government.

These rules cover all the points related to conduct of a public official whether he is serving under federal or provincial governments.

The Government Servants (Efficiency & Discipline) Rules, 1973

<https://wasa.punjab.gov.pk/system/files/eda_1973.pdf>

- i. Each case is examined to ascertain as to whether disciplinary proceedings are to be initiated or otherwise as per prescribed check-list under the rules.
- ii. A panel of 03 officers is proposed for nomination of an Authorized Officer (A.O) by the Authority i.e Secretary Establishment (BS-17 to 19) and Prime Minister (BS-20 & above) under Rules 2(2) of E&D Rules, 1973.
- iii. Authorized Officer appoints an inquiry officer for conducting a formal inquiry.
- iv. Charge Sheet and Statement of Allegations is issued to accused officer by the Authorized Officer in terms of Rule 3(a) & (b) directing him to submit his written reply followed by personal hearing, if required.
- v. The Inquiry Officer after conducting a formal enquiry submits his findings to the Authorized Officer as to whether the charges against the accused officer are established or otherwise. He is not empowered to recommend any major or minor penalty.
- vi. The Authorized Officer submits his recommendations to the authority in the light of Inquiry Report.
- vii. The authority imposes major/minor penalty in the light of recommendations of authorized officer as deem appropriate with a right of appeal to accused within 30 days of receipt of the order.
- viii. Upon receipt of appeal the authority provides an opportunity of personal hearing. The appeal is decided in the light of Civil Servant Appeals Rules 1977.
- ix. On receipt of a complaint an affidavit and copy of CNIC is sought from the complainant.
- x. After provision of the above documents the complaint is forwarded to concerned departments for conducting an internal inquiry and providing their recommendations to this Division for further proceeding under E&D Rules.
- xi. Under Rule 16, 21 & 22 of Conduct Rule 1964 the permission/NOC to carry out Private Trade or Work, Management etc of Newspapers or Periodicals and Publications of information and Public Speeches capable of embarrassing the Government are issued.
- xii. Under Government Servants (Marriage with Foreign Nationals) Rules 1962 Government officers are required to seek NOC from this Division for marrying Foreign Nationals.
- xiii. The permission to carry out consultancy work is accorded by the Prime Minister to the ex-Government Servant under Ex-Government Servants (Employment with Foreign Governments) Prohibition Act, 1966.
- xiv. As per Rule 12 of Government Servants (Conduct) Rules, 1964 regarding submission of assets, the Government Servant at the time of joining of their service have to declare their assets of all immoveable and moveable properties including shares, certificates, securities, insurance policies and Jewellery having a total value of 50,000/- or more and liabilities belonging to or held by him or member of his family.
- xv. After that on annual basis i.e. ending on 30th June, showing any increase or decrease of property as shown in previous annual declaration through usual channel.
- xvi. According to the sub-rule (3) of Rule 12, declaration of assets proforma shall be opened in the concerned section and entered into database.
- xvii. Establishment Division maintains record of declaration of assets of PAS, PSP, Secretariat Group and OMG.
- xviii. The D. As of the above officers can be scrutinized in the event of report of any corruption against the officer. These are being provided to Investigation Agencies, Courts and

Inquiry officers on case-to-case basis.

xix. The objective/purpose to introduce the system of declaration of assets is to prevent or combat corruption, to promote integrity and to increase transparency in public affairs.

FBR

Federal Board of Revenue has disseminated an elaborate code of conduct for all employees which contains guidelines and answers to the following questions:

- Should I accept a gift or some kind of favour from taxpayers?
- Can I borrow from a person who places me under any obligation to the donor?
- What to do when I am caught in an ethical dilemma?
- While performing my official duties, am I required to set aside my personal interest, likes and dislikes etc?
- What if there is a conflict of interest between my official obligation and personal interest?
- The code of conduct attempts to provide answers and guidance on the above-mentioned questions.

All provinces have their own conduct rules for their provincial government servants. These conduct rules are available on following links:

5. The Punjab Government Servants (Conduct) Rules, 1966.

https://highcourtchd.gov.in/sub_pages/left_menu/Rules_orders/cond_rules/punjab.pdf

6. The Sindh Government Servants (Conduct) Rules, 1966

<https://sindh.gov.pk/dpt/RULES/CONduct%20RULE.pdf>

7. The Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011

[http://kp.gov.pk/uploads/2016/10/ED_Rules_2011_\(full_set\).pdf](http://kp.gov.pk/uploads/2016/10/ED_Rules_2011_(full_set).pdf)

8. The Balochistan Government Servants (Conduct) Rules, 1979.

[https://balochistan.gov.pk/Downloads/SERVICE%20Rules%20S&GAD%202013/Balochistan%20Government%20Servants%20\(Conduct\)%20Rules%201979.pdf](https://balochistan.gov.pk/Downloads/SERVICE%20Rules%20S&GAD%202013/Balochistan%20Government%20Servants%20(Conduct)%20Rules%201979.pdf)

Examples of the implementation

Summary of Disciplinary Action Cases of NAB under Code of Conduct - During last five years:

Year	Major Penalties	Minor Penalties	Exonerated	Under Process/ Others	Total
2015	8	9	2	2	21
2016	4	11	8	1	24
2017	3	6	2	1	12

2018	0	6	3	31	40
2019	3	3	16	31	53
Total	18	35	31	66	150

Data of disciplinary proceedings - Establishment Division

Total Cases	Abated due to Retirement	Minor Penalty	Major Penalty	Exoneration/completed
149	10	23	14	54

Data of disciplinary proceedings - Federal Board of Revenue (FBR) during last three years

Total Cases	Minor Penalty	Major Penalty	Exonerated	Under Process
55	14	3	12	26

(b) Observations on the implementation of the article

Codes of conduct for all employees of Government entities are regulated by the Government Servant (Conduct) Rules. In cases of misconduct, disciplinary action is taken in accordance with the provisions of the Civil Servants (Efficiency and Discipline) Rules.

NAB has its own code of conduct. The Establishment Division has overall oversight and monitoring responsibility for the application of the above-mentioned acts, rules and codes of conduct. Relevant integrity training is provided for all federal and provincial civil servants.

Paragraph 2 and 3 of article 8

2. In particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.

3. For the purposes of implementing the provisions of this article, each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly resolution 51/59 of 12 December 1996.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

1. NAB

NAB has its own code of conduct and performance monitoring and evaluation system. Chairman NAB is directly looking after the performance and conduct of officers and staff of NAB.

2. Establishment Division

As explained in the preceding paragraphs.

The Government Servants (Conduct) Rules, 1964

As explained in the preceding paragraphs.

The Government Servants (Efficiency & Discipline) Rules, 1973

As explained in the preceding paragraphs. However;

- i. Each case is examined to ascertain as to whether disciplinary proceedings are to be initiated or otherwise as per prescribed checklist under the rules;
- ii. A panel of 03 officers is proposed for nomination of an Authorized Officer (A.O) by the Authority i.e Secretary Establishment (BS-17 to 19) and Prime Minister (BS-20 & above) under Rules 2(2) of E&D Rules, 1973;
- iii. Authorized Officer appoints an inquiry officer for conducting a formal inquiry;
- iv. Charge Sheet and Statement of Allegations is issued to accused officer by the Authorized Officer in terms of Rule 3(a) & (b) directing him to submit his written reply followed by personal hearing, if required;
- v. The Inquiry Officer after conducting a formal enquiry submits his findings to the Authorized Officer as to whether the charges against the accused officer are established or otherwise. He is not empowered to recommend any major or minor penalty;
- vi. The Authorized Officer submits his recommendations to the authority in the light of Inquiry Report;
- vii. The authority imposes major/minor penalty in the light of recommendations of authorized officer as deem appropriate with a right of appeal to accused within 30 days of receipt of the order; and
- viii. Upon receipt of appeal the authority provides an opportunity of personal hearing. The appeal is decided in the light of Civil Servant Appeals Rules 1977.
- ix. On receipt of a complaint an affidavit and copy of CNIC is sought from the complainant;
- x. After provision of the above documents the complaint is forwarded to concerned departments for conducting an internal inquiry and providing their recommendations to this Division for further proceeding under E&D Rules;
- xi. Under Rule 16, 21 & 22 of Conduct Rule 1964 the permission/NOC to carry out Private Trade or Work, Management etc of Newspapers or Periodicals and Publications of information and Public Speeches capable of embarrassing the Government are issued;

- xii. Under Government Servants (Marriage with Foreign Nationals) Rules 1962 Government officers are required to seek NOC from this Division for marrying Foreign Nationals;
- xiii. The permission to carry out consultancy work is accorded by the Prime Minister to the ex-Government Servant under Ex-Government Servants (Employment with Foreign Governments) Prohibition Act, 1966;
- xiv. As per Rule 12 of Government Servants (Conduct) Rules, 1964 regarding submission of assets, the Government Servant at the time of joining of their service have to declare their assets of all immovable and moveable properties including shares, certificates, securities, insurance policies and Jewellery having a total value of 50,000/- or more and liabilities belonging to or held by him or member of his family;
- xv. After that on annual basis i.e. ending on 30th June, showing any increase or decrease of property as shown in previous annual declaration through usual channel;
- xvi. According to the sub-rule (3) of Rule 12, declaration of assets proforma shall be opened in the concerned section and entered into database;
- xvii. Establishment Division maintains record of declaration of assets of PAS, PSP, Secretariat Group and OMG;
- xviii. The D. As of the above officers can be scrutinized in the event of report of any corruption against the officer. These are being provided to Investigation Agencies, Courts and Inquiry officers on case-to-case basis; and
- xix. The objective/purpose to introduce the system of declaration of assets is to prevent or combat corruption, to promote integrity and to increase transparency in public affairs.

3. FBR

As mentioned, the Federal Board of Revenue (“FBR”) takes pride in its cherished values which are:

- § Integrity
- § Professionalism
- § Teamwork
- § Courtesy
- § Fairness
- § Transparency
- § Responsiveness

Federal Board of Revenue aims at strengthening its revenue services through maximum facilitation to the taxpayers. It has made a special arrangement to directly receive representations U/S 7 of the FBR Act, 2007. The aggrieved persons are given the facility to submit advance copy of their representation online, if they prefer so. Subsequently a hard copy of representation along with the supporting documents may be sent to the Board.

Under the aforesaid arrangement, any person can make representation to the Chairman FBR, for redressal of grievance caused by the factors such as below:

1. any action done or taken for the enforcement of the fiscal laws, or
2. any notification issued by the Federal Government, or
3. any act of maladministration, corruption and misbehavior by any employee or officer of the

Board,

4. any unnecessary delay or hardship caused due to any administrative process.

Section 7 of the FBR Act 2007, shall not apply to the applications where remedy is available in any existing law. This section provides administrative remedy to such grievances that cannot be redressed through any appellate forum. The Member FATE has been delegated the powers of section 7 of FBR Act,2007.

Internal accountability is the integral part of development of an institution and its human resource. FBR has embarked upon establishing Integrity Management Cell & Performance Management Cell.

In order to analyze complaints of corruption, FBR has established a Complaint Scrutiny Committee (CSC) which shall ensure:

- i. That the complainant is verified and he / she confirms the contents of his / her complaint
- ii. To carry out necessary investigation to ascertain the authenticity of the complaint,
- iii. To furnish necessary recommendation to Council of Complaints (COC).

Moreover, to suggest further inquiry and proceedings, FBR has also notified Council of Complaints (COC) which has the following composition:

- i. Member (HRM)
- ii. Member (Customs Policy)
- iii. Members Concerned:

The following are the members concerned:

- a. Member IR-Ops in respect of Officers/Officials of IRS
- b. Member Customs Ops in respect of Officers/Officials of Customs
- c. Member Admin for Officers/Officials other than IRS/PCS

Council of Complaints (COC) shall ensure:

- i. COC will consider the recommendations placed before it by CSC and will examine the relevant record.
- ii. COC may decide by a majority vote whether a complaint needs to be closed for want of substantial proof or it needs further action under Efficiency & Discipline Rules, 1973.
- iii. COC may finalize its findings / recommendations within 60 working days.

Following modes may be adopted to lodge complaints:

- § By directly calling helpline at 111-772-772 for information.
- § By visiting field offices of Inland Revenue & Pakistan Customs.
- § By sending an email at <mailto:complaints@fbr.gov.pk>
- § By filing complaint on FBR online portal:

<http://crm.pral.com.pk:9090/corruption/complaints/index>

By submitting either a hard copy of the complaint through post or meeting in person with Secretary (IMC), FBR (HQ), Constitution Avenue, Islamabad.

Examples of the implementation

Summary of Disciplinary Action Cases of NAB under Code of Conduct - During last five years

<u>Year</u>	<u>Major Penalties</u>	<u>Minor Penalties</u>	<u>Exonerated</u>	<u>Under Process/ Others</u>	<u>Total</u>
2015	8	9	2	2	21
2016	4	11	8	1	24
2017	3	6	2	1	12
2018	0	6	3	31	40
2019	3	3	16	31	53
Total	18	35	31	66	150

Data of disciplinary proceedings - Establishment Division

<u>Total Cases</u>	<u>Abated due to Retirement</u>	<u>Minor Penalty</u>	<u>Major Penalty</u>	<u>Exoneration/ completed</u>
149	10	23	14	54

Data of disciplinary proceedings - Federal Board of Revenue (FBR) during last three years

<u>Total Cases</u>	<u>Minor Penalty</u>	<u>Major Penalty</u>	<u>Exonerated</u>	<u>Under Process</u>
55	14	3	12	26

(b) Observations on the implementation of the article

Codes of conduct for all employees of Government entities are regulated by the Government Servant (Conduct) Rules. In cases of misconduct, disciplinary action is taken in accordance with the provisions of the Civil Servants (Efficiency and Discipline) Rules.

Paragraph 4 of article 8

4. Each State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

1. NAB

NAB encourages the reporting of corruption related matters. NAB is a complaint driven organization. NAB has widely circulated its email, telephone and addresses for general public for reporting of corruption (<http://nab.gov.pk/contacts.asp>). There is an Awareness and Prevention Division at NAB HQ and Wings at regional level which deals with awareness and prevention of corruption through the country. NAB has systematic and robust mechanism to receive complaints from general public through postal mail, fax, email and in person. NAB receives official complaints pertaining to financial from different ministries / departments. Further, there is an in-house Chairman NAB's Inspection and Monitoring Team ("CI&MT") which deal with the complaints against its own officers and officials.

Enactment of the 'Whistleblower Protection and Vigilance Commission Act, 2019 at the National encourages the reporting of corruption

(http://www.na.gov.pk/uploads/documents/1556805307_895.pdf).

- § The Witness Protection, Security and Benefit Act, 2017;
- § The Public Interest Disclosures Act, 2017;
- § The Balochistan Witness Protection Act, 2016;
- § The Khyber Pakhtunkhwa Whistleblower Protection and Vigilance Commission Act, 2016;
- § The Punjab Witness Protection Act, 2018;
- § The Sindh Transparency and Right to Information Act, 2016;
- § The Right of Access to Information Act, 2017;
- § The Punjab Transparency and Right to Information Act 2013;

FIA and ACEs are also easily accessible to all for reporting of corruption matters

2. The Controller General of Accounts

Any act of corruption, if reported is brought into the notice of higher authorities i.e. AGPR/CGA for conducting inquiries and fixing of responsibilities to safeguard public exchequer from any loss. If further investigation is required, such cases are also forwarded to relevant authorities/bodies within the Federal Government.

3. Auditor General of Pakistan

Auditor General has pivotal role in promoting accountability and transparency in the country. In order to promote transparency auditor General of Pakistan notifies internal Control/ Pre-Audit Checks which ensures steps to discourage corrupt practices.

1. Yes Audit regularly Reports any issue of corruption diagnosed regularly in shape of Audit Inspection Reports (AiRs), Audit Reports and in case of Fraud or Mis-appropriation cases are reported to FIA/NAB for further probe/investigation

Specific measures- Cases of Embezzlement and Fraud once detected during audit are referred to Federal Investigation Agency (FIA). Procedure for such reporting circulated vide AGP Notification No 1090/AP&SS/106-C/11 Dated 3rd October 2013

Examples of the implementation

Cases reported for the Federal Government Departments involving frauds, embezzlement, theft and misuse of public resources are disclosed in audit report for each Government (Federal/Provincial/District) Separately. Last five Years data pertaining to Federal Government for example is shared as under.

S r.	FY	Amount in Rs Millions
1	2013-14	400.769
2	2014-15	1715.692
3	2015-16	10.40
4	2016-17	24.105
5	2017-18	862.4

Data of complaints received at NAB during last five years

<u>Year</u>	<u>Number of complaints</u>
2015	29,996
2016	33,245
2017	26,551
2018	45,742
2019	46,308
Total	181,842

(b) Observations on the implementation of the article

The framework for the reporting by public officials of acts of corruption is provided for in the

Whistle-blower Protection and Vigilance Commission Act (2019) and the Witness Protection, Security and Benefit Act (2017) at the national level, as well as in various legislation at the provincial level. NAB is able to receive complaints through various channels and has an inspection and monitoring team in place. Acts of corruption can also be reported to the Controller General of Accounts, the Auditor General of Pakistan, the Federal Investigation Agency and the provincial anti-corruption establishments. Civil servants receive a letter every year reminding them of their obligation to report acts of corruption in the workplace.

Paragraph 5 of article 8

5. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

Each public official of Basic Pay Scale (“BPS”) 1 - 22 is obligated to declare under the Conduct Rules, 1964 <https://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/library-files/Pakistan_Government%20Servants%20Conduct%20Rules_1964_en.pdf> all assets and incomes (including all assets owned by the officer & his family members) on annual basis.

As per section 12 of The Government Servants (Conduct) Rules, 1964

“Declaration of property. -

*(1) Every Government servant shall, at the time of entering Government service, make a declaration to the Government, through the usual channel, of all immovable and movable properties including shares, certificates, securities, insurance policies and jewellery having a total value of ****[Rs.50,000 (fifty thousand rupees)]** or more belonging to or held by him or a member of his family and such declaration shall,*

(a) state the district within which the property is situated.

*(b) show separately individual items of jewellery exceeding ****[Rs. 50,000 (fifty thousand rupees)]** in value, and*

(c) give such further information as the Government may, by general or special order, require.

(2) Every Government servant shall submit to the Government, through usual channel, an annual return of assets in the month of December showing any increase or decrease of property

as shown in the declaration under sub-rule or, as the case may be, the last annual return.”

As per section 13 of The Government Servants (Conduct) Rules, 1964

“Disclosure of assets, immovable, movable and liquid. -

*A Government servant shall, as and when he is so required by Government by a general or special order, furnish information as to his assets disclosing liquid assets and all other properties, immovable and movable, including shares, certificates, insurance policies, jewellery *[and expenses during any period specified by such order in the form specified therein].”*

(b) Observations on the implementation of the article

The obligation for all civil servants to declare gifts, interests and assets is established in the Government Servants (Conduct) Rules. The declarations must be updated for every financial year, which ends on 30 June. Members of the Parliament file their declarations with the Election Commission of Pakistan, whereas civil servants employed within the administrative service, police, secretariat or office management groups file declarations with the Establishment Division. All other civil servants submit declarations within their own departments. Sanctions are in place for violations of the declaration regime, which is trust-based. There is no centralized oversight authority or verification system.

It is therefore recommended that Pakistan consider establishing a verification system for the declaration of relevant interests by civil servants and members of the judiciary and prosecution service.

Paragraph 6 of article 8

6. Each State Party shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

Action can be initiated if an employee is found to be inefficient, corrupt, habitually absent from duty or possesses assets which cannot be explained or has assumed a style of living beyond his income or found to be engaged in anti-state activities etc. Disciplinary proceedings are initiated under the E&D Rules, 1973 and RSO, 2000.

Examples of the implementation

Data of disciplinary proceedings - Establishment Division

Total Cases	Abated due to Retirement	Minor Plenty	Major Penalty	Exoneration/ completed

149	10	23	14	54
-----	----	----	----	----

Data of disciplinary proceedings - Federal Board of Revenue (FBR) during last three years

Total Cases	Minor Penalty	Major Penalty	Exonerated	Under Process
55	14	3	12	26

(b) Observations on the implementation of the article

It was observed that in cases of misconduct, disciplinary action is taken in accordance with the provisions of the Civil Servants (Efficiency and Discipline) Rules.

Article 9. Public procurement and management of public finances

Paragraph 1 of article 9

1. Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia:

(a) The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;

(b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;

(c) The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;

(d) An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;

(e) Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

1. Auditor General of Pakistan (“AGP”)

Auditor General's Reports classify weaknesses in procurement process in every audit report. This is a legal review process carried out and audit is mandatory for all the public sector organizations in Pakistan.

Department of Auditor General of Pakistan conducts Audit of the Public expenditure and revenue in compliance with the auditing standards the International Standards of Supreme Audit Institutions ("ISSAI"), with a focus to promote transparency and accountability in public finances.

The Auditor General of Pakistan conducts audit of the public money in the light of fundamental accounting and auditing standards, both the financial attestation and compliance with controls aspects of regulatory audits, including planning, fieldwork, evaluation of findings, timely reporting and follow up.

2. NAB

NAB has been declared as the designated Central Authority on Prevention Regime under the United Nations Convention Against Corruption (UNCAC). The establishment of Awareness and Prevention Division at the NAB Headquarters and its Wings in the Regional Bureaus reflects the Bureau's commitment to the holistic approach of a three-pronged strategy i.e. Awareness, Prevention & Enforcement for curbing the menace of corruption in the country. The Prevention methodology of the NAB gets its strength from the Sections 33B and 33C of the National Accountability Ordinance (NAO), 1999.

“Reporting of public contracts

Measures for the prevention of corruption and corrupt practices

<http://nab.gov.pk/Downloads/nao.asp>

33B. All Ministries, Divisions and Attached Departments of the Federal Government, all departments of Provincial and local governments, statutory corporations or authorities established by the Federal Government or Provincial Government and holders of public office shall furnish to NAB a copy of any contract, entered into by such Ministries, Divisions and Attached Departments of the Federal Government, all departments of Provincial Government or local government, statutory corporations or authorities established by the Federal Government or Provincial Government or such holder of public office on its behalf, as the case may be, of the minimum monetary value of fifty million rupees or more, within such time as is reasonably practicable from the date of signing such contract.

33C. The Chairman NAB, shall from time to time as he deems fit, constitute committees comprising officers of the NAB or other persons or organizations from the private or public sectors to- (a) educate and advise public authorities, holders of public office and the community at large on measures to combat corruption and corrupt practices; (b) develop, arrange, supervise, participate in or conduct educational programmes or media campaigns, and generally to disseminate information on the detrimental effects of corruption and corrupt practices and the importance of maintaining the integrity of public administration; (c) examine the laws in force, and also rules and regulations relating to the practice and procedure of various ministries, departments of the Federal Government or Provincial Government, statutory or other public corporations or bodies, and the conduct of holders of public office and to recommend amendments in such laws, rules or regulations, as the case may be, in order to eliminate corruption and corrupt practices; (d) instruct, advise and assist any statutory or other public corporation or bodies or upon request, any organization in the private and public

sector on measures for the reduction and elimination of corruption and corrupt practices; and (e) monitor the implementation of the instructions and advice as aforesaid and to assess and evaluate the success or otherwise of such instructions and advice on the reduction and elimination of corruption and corrupt practices.”

The public sector tendering process/contract agreements are scrutinized by the Awareness and Prevention Division/ Wings at the NAB HQ as well as Regional Offices. The public procuring entities are also advised to strictly follow the public procurement rules for ensuring transparency in the tender processes and subsequent award of contracts. All public sector organizations are required to provide details of the contracts of monetary value Rs. 50 million or above to NAB as per law. NAB is fully aware of the fact that corruption in procurement represents a potentially large drain on the public purse. Other adverse impacts include faulty and inadequate service provision, inflated maintenance and replacement costs, environmental damage, reduced efficiency and innovation, damage to public trust in government and curtailment of economic development.

There is a Public Procurement Regulatory Authority; which is an autonomous with the responsibility of prescribing regulations and procedures for public procurements by Federal Government owned public sector organizations with a view to improve governance, management, transparency, accountability and quality of public procurement of goods, works and services. It has the responsibility of monitoring procurement by public sector agencies/organizations and has been delegated necessary powers under the Public Procurement Regulatory Authority Ordinance 2002.

The formation of Prevention Committees under Section 33C of NAO, 1999 at NAB HQ and Regional level provides a unique platform for analyzing the contracts under the existing rules, procedures and laws of public sector departments and to suggest amendments/changes in processes for enhanced transparency and effectiveness. It involves frequent meetings with other government offices and relevant stakeholders wherein the existing weaknesses in the systems are thoroughly discussed before suggesting changes in the systems. The role of the Prevention Committees has been highly praised by the public sector, as their official business and mitigating the risks of corruption in the public sector service delivery. Prevention Committees in different sectors have been successfully finalized the recommendations to plug the loopholes in the existing procedures for improving and strengthening the regulatory mechanism of public sector service delivery for transparency, meritocracy, fair play and compliance with relevant laws.

NAB is responsible, inter alia, for drafting the Anti-Corruption Strategy and the Action Plan for the prevention of corruption, coordination and supervision of their implementation; coordination of the work of public institutions in preventing corruption and conflicts of interest; monitoring of conflicts of interest; cooperation with international organizations; the development of educational programs for the prevention of corruption and the fight against corruption. For a more efficient implementation of the Anti-Corruption Strategy, institutions and agencies at all levels, public agencies and other bodies of public authority are obliged to cooperate with NAB.

(b) Observations on the implementation of the article

The Public Procurement Regulatory Authority is an autonomous body mandated to take measures to improve the governance, management, transparency, accountability and quality of public procurement. In addition to fulfilling all the substantive and procedural requirements of the procurement regulatory framework, the procuring agencies are obliged to publish all tender notices with a value in excess of 3 million Pakistan rupees on the Public Procurement Regulatory Authority website, as well as in print media. The procuring agencies are also required to make public all

documents related to the evaluation of the bid for and award of contracts, in accordance with rule 47 of the Public Procurement Rules (2004).

The Authority is currently in the final stages of developing a web-based e-procurement system called the “e-Pak acquisition and disposal system” (EPADS), which will fully automate the public procurement process in Pakistan.

The Auditor General of Pakistan reviews procurement contracts when auditing expenditures of public funds. Moreover, the National Accountability Ordinance requires all ministries, divisions and departments of the Government and of provincial and local governments, as well as statutory corporations or authorities and holders of public office, to provide NAB with copies of all public contracts valued at 50 million Pakistan rupees or more. The procurement rules are currently being revised. Complaints can be filed with the agency that initiated the procurement. The rules provide only for a system of administrative review of complaints by the Principal Accounting Officer, whose findings are communicated to the Public Procurement Regulatory Authority prior to the award of the contract, with the information being published when contracts are awarded. The training programme for procurement personnel might be improved. Public procurement personnel are required to file asset declarations but are not required to file declarations of conflicts of interest, and they do not undergo screening procedures.

Based on the information provided, it is recommended that Pakistan:

- (a) review the public procurement framework to provide for a more comprehensive legal framework and for an effective system of appeal; and**
- (b) strengthen the implementation of public procurement legislation and rules, including by providing the Public Procurement Regulatory Authority and NAB with adequate and sufficient resources to carry out their functions in that regard and by taking measures to regulate matters regarding personnel involved in procurement, such as the establishment of a system for the declaration of conflicts of interest, the introduction of screening procedures and the provision of training.**

Paragraph 2 of article 9

2. Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia:

- (a) Procedures for the adoption of the national budget;*
- (b) Timely reporting on revenue and expenditure;*
- (c) A system of accounting and auditing standards and related oversight;*
- (d) Effective and efficient systems of risk management and internal control; and*
- (e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.*

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

1. Federal Board of Revenue

(a). The Procedures for the adoption of the national budget;

In Pakistan, the general budget is known as the Federal Budget. In the Constitution, it is referred to as the Annual Budget Statement (“ABS”), prepared and presented by the Federal Government before the National Assembly (lower house) every year. It is a statement of the estimated receipts and expenditure of the Federal Government in a particular financial year. The financial year starts on 1st July and ends on 30th June.

The Constitution underlines that all receipts and expenditure to be incurred in a particular financial year are to be met by the Federal Consolidated Fund (“FCF”) of Pakistan. All revenues received, all loans raised and all moneys received by the Federal Government form the FCF. Besides the fund, there is also another account of government known as Public Account of the Federation (“PAF”). In this account, all other moneys received by or on behalf of the federal government; or received by or deposited with the Supreme Court of Pakistan or any other court established under the authority of the federation gets credited. The custody of both the FCF and PAF is governed and regulated by the Act of Parliament (Majlis-e-Shoora). Article 78 of the Constitution of Islamic Republic of Pakistan deals with it:

“Article: 78 Federal Consolidated Fund and Public Account

78. Federal Consolidated Fund and Public Account. -(1) All revenues received by the Federal Government, all loans raised by that Government and all moneys received by it in repayment of any loan, shall form part of a consolidated fund, to be known as the Federal Consolidated Fund.

(2) All other moneys-

(a) received by or on behalf of the Federal Government; or

(b) received by or deposited with the Supreme Court or any other court established under the authority of the Federation;

shall be credited to the Public Account of the Federation.”

The Annual Budget Statement (“ABS”) derives the required sums for a particular financial year from the federal consolidated fund under the categories of ‘Charged’ expenditure and ‘Other’ /voted expenditure. Whereas the ‘Charged’ expenditures are not subject to voting in Pakistan Parliament and remains beyond legislative scrutiny; ‘Other’ expenditures are submitted to vote in the National assembly and hence are subject to legislative enquiry. However, nothing can prevent the members of parliament to discuss the expenditure made under the charged category. Charged expenditure in the federal budget is also known as ‘Authorised Expenditure’ which gets authenticated by the Prime Minister of Pakistan and introduced in the Parliament of Pakistan. ‘Charged’ expenditures is predominately related to constitutional functionaries and offices and therefore meant to maintain their administrative as well as functional autonomy. These includes the salaries payable to the President and other disbursement relating to his office; the salaries payable to the Judges of the Supreme Court, the Chief Election Commissioner, the Chairman and the Deputy Chairman, the Speaker and the Deputy Speaker of the National Assembly, the Auditor-General; and other administrative expenses including the remuneration payable to officers and servants of the Supreme Court, the Department of the Auditor-General, the Office of the Chief Election Commissioner and of the Election Commission, and the Secretariats of the Senate and the National Assembly. Besides, there are other committed liabilities of the government such as debt servicing, interest payments, the repayment or amortization of capital, and other expenditure in connection with the raising of

loans, which have been made on the security of the FCF.

The budget is technically the document that includes the government's expenditure and revenue proposals, reflecting its policy priorities and fiscal targets. However, the budget document is the culmination of an on-going budget decision-making process, and of a country's system for managing and assessing its spending and tax policies. Looking at any one aspect of the overall budget system in isolation misses the important interaction between the various parts. Therefore, a discussion on the budget cycle is imperative. The Budget Cycle consists of the major events or stages in making decisions about the budget, and implementing and assessing those decisions.

The budget cycle usually has four stages:

- Budget formulation, when the budget plan is put together by the executive branch of government;
- Enactment, when the budget plan may be debated, altered, and approved by the legislative branch;
- Execution, when the policies of the budget are carried out by the government; and
- Auditing and assessment, when the actual expenditures of the budget are accounted for and assessed for effectiveness.

(b). Timely reporting on revenue and expenditure;

Ministry of Finance is responsible for the timely reporting of revenue and expenditure. However, revenues are timely reported by the Federal Board of Revenue.

(c). A system of accounting and auditing standards and related oversight;

The accounting and financial reporting framework for all companies in Pakistan is stipulated by the Companies Act of 2017 (formerly Companies Ordinance of 1984). The Act outlines the requirements for the presentation of financial statements, establishes standard-setting procedures as well as other financial reporting obligations. All companies are required to prepare financial statements. Under the Act, ICAP is also responsible for adopting and issuing auditing standards.

Accounting Framework

Under the Companies Act of 2017, accounting standards are approved for use as adopted by the Securities and Exchange Commission of Pakistan (“SECP”). The SECP, however, has delegated the responsibility of developing and adopting accounting standards to the Institute of Chartered Accountants of Pakistan (ICAP). ICAP has adopted the International Financial Reporting Standards (“IFRS”). Under the Companies Act, listed companies (including foreign companies listed in Pakistan), public interest companies (including public sector companies, public utility companies, financial institutions, and companies in the process of being listed), and large-sized non-listed companies (companies with paid-up capital exceeding 200 million rupees or with an annual turnover exceeding 1 billion rupees) are required to apply IFRS in the preparation of their financial statements.

Medium-sized companies, defined in Pakistan as all companies other than listed, public interest, large-sized, and small-sized can either choose to use IFRS for SMEs or full IFRS.

Small-sized entities defined as companies with paid-up capital not exceeding 25 million rupees and with turnover not exceeding 100 million rupees, can choose to use Accounting and Financial Reporting Standards for Small-Sized Entities (“AFRS for SSEs”), IFRS for SMEs, or full IFRS.

The Insurance Ordinance of 2000 establishes financial reporting requirements for insurance companies. Under the Ordinance, insurance companies are required to follow financial reporting standards issued by ICAP. Under the Banking Companies Ordinance, the State Bank of Pakistan (“SBP”) is responsible for setting financial reporting requirements for banks and similar financial institutions. The SBP requires banks and financial institutions to submit audited financial statements prepared and audited according to the standards issued by ICAP.

Auditing Framework

Under the Companies Act of 2017, ICAP is responsible for adopting and issuing auditing standards to be applied in Pakistan, and the institute has adopted the revised 2016 ISA. Under the Companies Act, all companies, except for private limited companies with paid up capital below one million rupees, are to be audited following auditing standards adopted and issued by ICAP. The Act indicates that financial statements of companies with paid up capital below one million rupees does not require an audit but still requires submission to the SECP.

Regulation of Accountancy Profession

In 2016, the Securities and Exchange Commission of Pakistan (“SECP”) made amendments to the Securities and Exchange Commission of Pakistan Act of 1997 that established an independent Audit Oversight Board (AOB) with the responsibility to regulate the auditing profession.

The Securities and Exchange Commission of Pakistan Act of 1997 (amended in 2016) establishes the functions of the AOB, which include: (i) overseeing and monitoring the work of the Institute of Chartered Accountants of Pakistan (ICAP) Quality Assurance Board (“QAB”) and Quality Control Review (“QCR”) program; (ii) registering all firms that have achieved a satisfactory QCR rating and deregistration of firms based on the outcome of the QCR by the QAB; and (iii) ensuring that auditing standards adopted by ICAP are aligned with the International Standards on Auditing as issued by the International Auditing and Assurance Standards Board (“IAASB”). Other professional accountants are regulated by the three professional accountancy organizations (“PAO”), which oversee the activities of the main streams of accountants in Pakistan: Chartered Accountants (“CAs”), Cost and Management Accountants (“CMAs”), and Public Finance Accountants (“PFAs”).

Penalty for false statement, falsification, forgery, fraud and deception etc in relations to affairs of the company or body corporate has been prescribed in section 496 of the Companies Act, 2017 which shall be punishable with imprisonment which shall not be less than one year but which may extend to seven years and shall also be liable to fine which shall not be less than the amount involved in the fraud but may extend to three times the amount involved in the offence provided further that in case of offence involves public interest, the term of imprisonment under this section shall not be less than three years along with fine.

(d). Effective and efficient systems of risk management and internal control;

The Directorate General of Internal Audit (Inland Revenue) being Internal Control of Federal Board of Revenue safeguards revenue leakages, checks the accuracy and reliability of departmental working, promotes efficiency, and encourages adherence to prescribed law and procedures. Since its inception the Directorate General has proved to be custodian of state revenues. The Directorate General derives its mandate from Section 228 of the Income Tax Ordinance, 2001. Its functions, jurisdiction and powers have been specified vide SRO No.660 (1)/2005 dated 30-06-2005.

The Directorate General has a significant history of detection of events of tax evasion, under-reporting, under-assessments and issuance of bogus/illegal refunds caused due to inefficiency, corrupt practices, lack of adequate skills, omissions and commissions. This inter-alia includes incorrect application of law, non-maintenance of proper records, wrong appreciation of facts, mal-

practices and connivance, improper training and lack of knowledge of respective trades and procedural lapses. The core functions performed by the Directorate General are remedial, curative and preventive in nature. The Inspection and Audit authorities make recommendations for an efficient system with the objective to create a taxpayers' friendly transparent culture envisioned in Tax Administration Reform Programme.

(e). Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.

2. Auditor General of Pakistan

Department of Auditor General of Pakistan conducts Audit of the Public expenditure and revenue in compliance with the auditing standards according to International Standards of Supreme Audit Institutions ("ISSAI"), with a focus to promote transparency and accountability in public finances

The Auditor General of Pakistan conducts audit of the public money in the light of fundamental accounting and auditing standards, both the financial attestation and compliance with controls aspects of regulatory audits, including planning, fieldwork, evaluation of findings, timely reporting and follow up.

The audit focuses on the areas of greatest materiality, significance and risk. An understanding of the risk associated with each audit entity is therefore critical to the development of an audit plan. The audit develops this understanding by conducting a risk assessment as part of planning an audit assignment.

The audit assesses the adequacy of the controls and concludes whether any controls are missing or ineffective in case of failure to comply with the requirements established in paragraph. The auditor recommends the management where, in the opinion of the auditor, the controls should be strengthened.

All revenues and expenditure incurred are timely reported in accordance with New Accounting Model through online SAP System.

A well-established system of accounting and auditing is in place running in accordance with the Generally Accepted Accounting Practices and Internal Auditing Standards.

DAGP has also initiated the process of switching over to Management of Information System Auditing to make auditing more effective, efficient and economical.

Strong internal controls are exercised to minimize risk and maximize benefits out of the public funds.

3. Accountant General of Public Revenue ("AGPR")

To meet the international standards of reporting the Government launched the Project to Improve Financial Reporting and Auditing ("PIFRA") formally inaugurated at its Pilot site in 2003.

PIFRA is mainly aimed to increase the accuracy, completeness, reliability, and timeliness of intra-year and year end Government financial reports in Pakistan at the national, provincial, and district levels. Moreover, it also strives to bring the audit practices in line with international best practices. This project directly supports the Government's commitment to improve public financial management, accountability, and transparency to facilitate public oversight and increase credibility in the international community.

Main objectives of PIFRA were:

- To modernize government audit procedures and adopt internationally accepted auditing standards.
- To establish effective accounting and reporting systems.
- To strengthen financial management practices.
- To generate financial information, that is more useful, complete, reliable and timely. Improved data will facilitate program management by government decision-makers.

To tighten internal controls and minimize the occurrence of errors and irregularities in the processing of payments and receipts.

4. The Controller General Accounts (“CGA”)

There is a set system, prevalent in Federal as well as in all provinces of the federations, with regard to preparation of budget. The budgetary provisions of Public Finances are released on quarterly basis but these revenue and expenditure are accounted for and reported on monthly basis. This reporting is based on GAAT; CATS and international standards. The significance of an effective system of internal controls and risk management has been given due weight age in the New Accounting Model.

5. Accountant General Pakistan (“AGP”)

The following standards of financial propriety, contained in Para 10, Chapter 2 of General Financial Rules Volume-I (Pakistan), are supposed to be implemented by all departments of Government of Pakistan:

- Every public officer is expected to exercise the same vigilance in respect of expenditure incurred from public moneys as a person of

ordinary prudence would exercise in respect of expenditure of his own Money.

- The expenditure should not be prima facie more than the occasion Demands.
- No authority should exercise its powers of sanctioning expenditure to pass an order which will be directly or indirectly to its own advantage.
- Public moneys should not be utilized for the benefit of a particular person or section of the community unless.

- Ø the amount of expenditure involved is insignificant or
- Ø a claim for the amount could be enforced in a court of law or
- Ø the expenditure is in pursuance of a recognized policy or custom.

In addition, the following measures, contained in Para 11-12 Chapter 2 of General Financial Rules Volume-I (Pakistan), are also supposed to be implemented by the provincial departments to control the expenditure:

- Each head of a department is responsible for enforcing financial order and strict economy at

every step.

- He is responsible for observance of all relevant financial rules and regulations both by his own office and by subordinate disbursing officers.
- A controlling officer must see not only that the total expenditure is kept within the limits of the authorized appropriation but also that the funds allotted to spending units are expended in the public interest and upon objects for which the money was provided In order to maintain a proper control.
- He should arrange to be kept informed not only of what has actually been spent from an appropriation but also what commitments and liabilities have been and will be incurred against it.
- He must be in a position to assume before Government and the Public Accounts Committee if necessary complete responsibility for departmental expenditures and to explain or justify any instance of excess or financial irregularity that may be brought to notice as a result of audit security or otherwise.

Besides above, the following internal checks, contained in Para 13, Chapter 2 of General Financial Rules Volume-I (Pakistan), are also supposed to be applied by the provincial departments of government while submitting claims for payment, to check irregularities, waste, Fraud and corruption:

- In the discharge of his ultimate responsibilities for the administration of an Appropriation or part of an appropriation placed at his disposal every Controlling officer must satisfy himself not only that adequate provisions exist within the departmental organization for systematic internal checks calculated to prevent and detect errors and irregularities in the financial proceedings of its subordinate officers to guard against waste and loss of public money and stores but also that the prescribed checks are effectively applied.
- For this purpose, each Head of the Department will get the account of his office and those of the subordinate disbursing officers if any inspected at least once in every financial year by a Senior Officer not connected with the account matters to see whether;
 - Ø Rules on handling and custody of cash are properly understood and applied.
 - Ø Effective system of internal check exists for securing regularity and propriety in the various transactions including receipt and issue of stores etc. if any.
 - Ø Satisfactory arrangement exists for systematic and proper maintenance of Account Books and other ancillary records concerned with the Initial Accounts.

The results of these inspections should be incorporated in the form of an inspection report copy of which should be endorsed to Audit The head of the Department should after his scrutiny of the report communicate to Audit a copy of his remarks thereon and any orders issued in that connection.

(b) Observations on the implementation of the article

Pursuant to the Constitution, the annual budget statement, containing the estimated receipts and expenditure of the Government, is prepared and presented by the Government to the National Assembly (lower house) every year. The Department of the Auditor General of Pakistan conducts audits of all public expenditure and revenue, in line with the relevant international standards. Off-budget expenditures are permitted, with revised budgetary statements presented to the National

Assembly for approval. All government entities are required to submit their reports to the Ministry of Finance, with the Federal Board of Revenue publishing yearly revenue and expenditure reports. The Internal Control Department of the Federal Board of Revenue oversees a system of risk management and control, and there are sanctions for lack of compliance.

Paragraph 3 of article 9

3. Each State Party shall take such civil and administrative measures as may be necessary, in accordance with the fundamental principles of its domestic law, to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure and revenue and to prevent the falsification of such documents.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

Automation/ computerization of processes increased the reliability factor and also preserves the integrity of books of accounts, records and financial statements. Each transaction recorded has its trail and detail which authenticate its validity supported by vouchers.

Availability of real time information, its completeness and timeliness also make it more reliable and reduce chances of falsification.

(b) Observations on the implementation of the article

The Accounting Policies and Procedures Manual (2001) provides the framework for department requirements and standards, and for storing and preserving the integrity of accounting books. Pakistan is currently digitalizing all its records.

Article 10. Public reporting

Subparagraph (a) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

(a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

1. Ministry of Law and Justice

The Right to Information Act, 2017,

“Sections 3. Right to have access to information not to be denied. - (1) Subject to the provisions of this Act, no applicant shall be denied access to information or record held by a public body;

(2) This Act shall be interpreted so as to advance its purposes as set out in the preamble and to-

- (a) promote the right of access to information; and*
- (b) facilitate and encourage promptly the disclosure of the information at the lowest and reasonable cost.*

Sections 4. Maintenance and indexing of record. - (1) Subject to the provisions of this Act and rules made thereunder, the principal officer of each public body shall ensure that the record held by that body is properly maintained, so as to enable it to comply with its obligations under this Act.

(2) Each public body shall bring its record management practices in line with the Secretariat Instructions, 2004 or any other instructions of the Federal Government.

Sections 5. Publication and availability of record. (1) The principal officer of each public body shall, within six months of the commencement of this Act, ensure that the following categories of information and record are duly published including uploading over the internet in a manner which best ensures that these are accessible subject to reasonable restrictions based on limited resources:

- (a) description of the public body's organisation and functions, duties, powers and any services it provides to the public, including a directory of its officers and employees, indicating their duties and functions and their respective remunerations, perks and privileges;*
- (b) statutes, statutory rules, regulations, bye-laws, orders and notifications, etc. applicable to the public body disclosing the date of their respective commencement or effect;*
- (c) substantive or procedural rules and regulations of general application evolved or adopted by the public body, including any manuals or policies used by its employees;*
- (d) relevant facts and background information relating to important policies and decisions which have been adopted, along with a statement of the policies adopted by the public body and the criteria standards or guidelines upon which discretionary powers are exercised by it;*
- (e) the conditions upon which members of the public can acquire any licence, permit, consent, approval, grant, allotment or other benefits of whatsoever nature from any public body or upon which transactions, agreements and contracts, including contracts of employment which can be entered into with the public body, along with particulars about the recipients of any concession, permit, licence or authorisation granted by the public body;*
- (f) a description of its decision-making processes as defined in the Federal Government's Secretariat Instructions, 2004 and any instructions for the time being in force for public to provide input into or be consulted about decisions;*

- (g) detailed budget of the public body, including proposed and actual expenditures, original or revised revenue targets, actual revenue receipts, revisions in the approved budget and the supplementary budget;
- (h) the methods whereby information in the possession or control of the public body may be obtained and the prescribed fee required along with the name, title and contact details of the designated officials;
- (i) reports including performance reports, audit reports, evaluation reports, inquiry or investigation reports and other reports that have been finalised;
- (j) such other matters which the principal officer of the public body deems fit to be published in the public interest;
- (k) such other information as may be prescribed; and
- (l) Camera footages at public places, wherever available, which have a bearing on a crime:

Provided that if the information or record pertains to a period earlier than the year 2008, the same shall be published within reasonable time.

Section 11. Requests. - (1) Subject to the provisions of this Act and the rules made thereunder, a citizen of the Islamic Republic of Pakistan may make a request to a public body through the designated official.

(2) A request under sub-section (1) shall be in writing and made in any manner in which the public body has the facilities to receive it, including in person, by mail, fax, online or e-mail.

(3) Any written request which identifies the information or record sought in sufficient detail, to enable the public body to locate it and which includes a complete address and contact details for delivery of the information or record, shall be treated as a request.

(4) Subject to sub-section (3), a public body may provide a prescribed form for making requests.

(5) In no case shall an applicant be required to provide reasons for his requests.”

2. Auditor General

Article 171 of the Constitution of the Islamic Republic of Pakistan specifies a clear procedure for lying of Audit Reports covering risks in public management to Parliament and Parliament after discussion publishes reports on actions taken on each matter of transparency highlighted in audit reports.

Article 171 of the Constitution of Pakistan

“171. Reports of Auditor General. The reports of the Auditor General relating to the accounts of the Federation shall be submitted to the President, who shall cause them to be laid before the [both Houses of MajliseShoora (Parliament)] and the reports of the Auditor General relating to the accounts of a Province shall be submitted to the Governor of the Province, who shall cause them to be laid before the Provincial Assembly.”

The Right of Access to Information Act, 2017.

The Government of Islamic Republic of Pakistan believes in transparency and the right to have access to information to ensure that the people of the Islamic Republic of Pakistan have improved access to records held by public authorities and promote the purposes of making the Government more accountable to its people, of improving participation by the people in public affairs, of reducing corruption and inefficiency in Government, of promoting sound economic growth, of promoting good governance and respect for human rights. The law gives effect to the fundamental right of access to information, as guaranteed under Article 19A of the Constitution of the Islamic Republic of Pakistan and international law, whereby everyone shall have the right to have access to all information held by public bodies. Article 19A of the Constitution of the Islamic Republic of Pakistan states:

“Article: 19A Right to Information

[19A. Right to information. - Every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law]”

The legislation at Provincial level has also been made to provide for transparency and freedom of information to ensure that citizens have improved access to public information; to make the Government more accountable to citizens; to enforce the fundamental right of access to information in all matters of public importance; and, to provide for ancillary matters.

However, there are the following for the provincial governments acts which deal with the issue of transparency:

1. The Punjab Transparency and Right to Information Act 2013,
<<http://punjablaws.gov.pk/laws/2547.html>>
2. The Sindh Transparency and Right to Information Act, 2016
<<http://www.pas.gov.pk/uploads/acts/Sindh%20Act%20No.XV%20of%202017.pdf>>
3. The Balochistan Freedom of Information Act 2005
<<http://www.transparency.org.pk/RTI/Balochistan-Freedom-of-Information-Act-2005.pdf>>
4. The Khyber Pakhtunkhwa Right to Information Act 2013
<<http://www.pakp.gov.pk/2013/acts/the-khyber-pakhtunkhwa-right-to-information-act2013/>>

(b) Observations on the implementation of the article

The right to information is enshrined in the Constitution. Access to information is regulated through the Right to Information Act at the federal level and other legislation at the provincial level.

The country has established the Pakistan Information Commission. Requests for information can be filed directly through the public information officers or designated officials of each public body.

The right to information may be restricted on the basis of national security, defence or diplomatic grounds; appeals may be filed to the Commission.

It is recommended that Pakistan consider developing guidelines for ministries and other government bodies on the effective implementation of the right to information and on facilitating timely access to information for the public.

Subparagraph (b) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

...

(b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and referred the information provided above.

(b) Observations on the implementation of the article

Each government agency makes available on its website all the information that it is mandated to provide, and many government services can be accessed online.

Subparagraph (c) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

...

(c) Publishing information, which may include periodic reports on the risks of corruption in its public administration.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and referred to the information provided above.

(b) Observations on the implementation of the article

Although no dedicated public surveys or corruption risk assessments have been conducted, the threat of corruption as a predicate crime to money-laundering was assessed in 2019 in the context of the national risk assessment for money-laundering and terrorism financing.

It is recommended that Pakistan consider conducting and publishing dedicated and periodic assessments of the risks of corruption in public administration.

Article 11. Measures relating to the judiciary and prosecution services

Paragraph 1 of article 11

1. Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

The judiciary of Pakistan consists of two classes of courts: the superior (or higher) judiciary and the subordinate (or lower) judiciary. The superior judiciary is composed of the Supreme Court of Pakistan, the Federal Shariat Court and five High Courts, with the Supreme Court at the apex. There is a High Court for each of the four provinces as well as a High Court for the Islamabad Capital Territory.

The subordinate judiciary consists of civil and criminal district courts, and various specialized courts covering banking, insurance, customs and excise, smuggling, drugs, terrorism, taxation, the environment, consumer protection, and accountability/ anticorruption. The criminal courts were created under the Criminal Procedure Code 1898 and the civil courts were established by the West Pakistan Civil Court Ordinance 1962. There are also revenue courts that operate under the West Pakistan Land Revenue Act 1967. The government may also set up administrative courts and tribunals for exercising exclusive jurisdiction in specific matters.

Article 209(6) of the Constitution empowers the Supreme Judicial Council to recommend the removal of any Judge who is “incapable of performing the duties of his office or has been guilty of misconduct”. This Article basically deals with the aspect to prevent corruption amongst the members of the judiciary. In respect of the Superior judiciary which includes the Judges of the Supreme Courts and the High Courts and for District Judiciary the Member Inspection Team (“MIT”) appointed by the Chief Justice of the High Court concerned and there sub-ordinate judiciary rules in terms of their respective Acts. However, the Supreme Judicial Council Procedure Of Inquiry, 2005, framed by the Supreme Judicial Council for “effective performance of functions vested in it under Article 209”, does shed some light in this regard. Specifically, Rule 3(l) of the 2005 Rules stipulates that “misconduct” includes “(i) conduct unbecoming of a Judge”; or (ii) conduct that “is in disregard of the Code of Conduct issued under Article 209(8) of the Constitution of Islamic Republic of Pakistan”; or (iii) conduct that “is found to be inefficient or has ceased to be efficient.” Further, “*the 17th Amendment to the Constitution brought a significant change in Article*

209 of the Constitution. Prior to the Amendment, the Council could process only such matters as were referred to it by the President. Under the amended Article 209, the Council, besides a reference from the President, may, also on its own account, inquire into the conduct or capacity of a Judge of a Superior Court in Pakistan. To bring the forum more effective a Committee was constituted by the Chief Justice of Pakistan to prepare draft rules/procedures for initiating action and conducting investigation/inquire. The Committee prepared a draft of the Supreme Judicial Council Procedure of Enquiry 2005, which was approved by the Council.”

Article: 209 Supreme Judicial Council

“209. *Supreme Judicial Council.* - (1) *There shall be a Supreme Judicial Council of Pakistan, in this Chapter referred to as the Council.*

(2) *The Council shall consist of-*

(a) *the Chief Justice of Pakistan;*

(b) *the two next most senior Judges of the Supreme Court; and*

(c) *the two most senior Chief Justices of High Courts.*

Explanation. - *For the purpose of this clause, the inter se seniority of the Chief Justices of the High Courts shall be determined with reference to their dates of appointment as Chief Justice [otherwise than as acting Chief Justice], and in case the dates of such appointment are the same, with reference to their dates of appointment as Judges of any of the High Courts.*

(3) *If at any time the Council is inquiring into the capacity or conduct of a Judge who is a member of the Council, or a member of the Council is absent or is unable to act due to illness or any other cause, then-*

(a) *if such member is a Judge of the Supreme Court, the Judge of the Supreme Court who is next in seniority below the Judges referred to in paragraph (b) of clause (2); and*

(b) *if such member is the Chief Justice of a High Court, the Chief Justice of another High Court who is next in seniority amongst the Chief Justices of the remaining High Courts, shall act as a member of the Council in his place.*

(4) *If, upon any matter inquired into by the Council, there is a difference of opinion amongst its members, the opinion of the majority shall prevail, and the report of the Council to the President shall be expressed in terms of the view of the majority.*

[(5) *If, on information from any source, the Council or the President is of the opinion that a Judge of the Supreme Court or of a High Court-*

(a) *may be incapable of properly performing the duties of his office by reason of physical or mental incapacity; or*

(b) *may have been guilty of misconduct, the President shall direct the Council to, or the Council may, on its own motion, inquire into the matter.]*

(6) If, after inquiring into the matter, the Council reports to the President that it is of the opinion,

(a) that the Judge is incapable of performing the duties of his office or has been guilty of misconduct, and

(b) that he should be removed from office, the President may remove the Judge from office.

(7) A Judge of the Supreme Court or of a High Court shall not be removed from office except as provided by this Article.

(8) The Council shall issue a code of conduct to be observed by Judges of the Supreme Court and of the High Courts.”

The rules of the Supreme Judicial Council Procedure of Enquiry are as follows:

“No.P.Reg.113/2005-SJC: (SUPREME JUDICIAL COUNCIL PROCEDURE OF ENQUIRY 2005) Pursuant to the decision taken by the Supreme Judicial Council, in its Meeting on 24th September 2005, the Supreme Judicial Council is pleased to lay down the following procedure for effective performance of functions vested in it under Article 209 of the Constitution of Islamic Republic of Pakistan.

Title and application:

The procedure of enquiry shall be called “The Supreme Judicial Council Procedure of Enquiry 2005”.

It shall only apply to the Supreme Judicial Council and its proceedings.

Scope:

The Procedure shall provide for effective implementation of Article 209 of the Constitution and regulate all inquiries required to be undertaken and all other matters which need to be addressed there under.

Definitions:

In the present Procedure, unless the context provides otherwise, the following expressions used in the Procedure will have the meanings as assigned to them hereunder

“Any matter”, includes all matters and facts associated with the enquiry that the Council may carry out.

Any other source”, includes all sources through which information is received in respect of the conduct of a Judge.

“Code of conduct”, means the code of conduct issued by the Supreme Judicial Council in terms of Article 209(8) of the Constitution of Islamic Republic of Pakistan.

“Chairman”, means and includes the Chief Justice of Pakistan.

“Incapacity”, will include all forms of physical or mental incapacity howsoever described or narrated, which render the Judge incapable of performing the duties of his office.

“Conduct”, will include series of facts associated with the matter being inquired into by the

Council, including the facts which are attributed to the person of the Judge.

“Guilty”, will include arriving at an opinion by the Council that a Judge has been guilty of misconduct.

“Opinion”, will include arriving at a conclusion by the Council, that misconduct has or has not taken place.

“Information”, includes any material, facts, documentation, photographs, video or audio tapes, affidavits, letters or any other reasonable evidence that has come to the knowledge of any Member of the Council or the Council itself sufficient to initiate an enquiry.

“Enquiry”, means the consideration of any matter, in relation to conduct of a Judge, by the Council, or any Member of the Council.

“Member”, means Member of the Supreme Judicial Council.

“Misconduct”, includes,

conduct unbecoming of a Judge,

is in disregard of the Code of Conduct issued under Article 209(8) of the Constitution of Islamic Republic of Pakistan,

is found to be inefficient or has ceased to be efficient.

“Report of the Council”, includes the findings of the enquiry proceedings carried out by the Council including recommendations for the President of Pakistan for removal of the Judge or otherwise.

“Secretary”, means the Registrar, Supreme Court or any person appointed by the Council.

“Supreme Judicial Council”, means the Supreme Judicial Council as constituted by Article 209 of the Constitution of Islamic Republic of Pakistan.

The Headquarters of the Council shall be at Islamabad, but the Council may hold its meeting or enquiry into reference or a complaint at any other place in Pakistan, as the Chairman may deem convenient.

Receiving of Information:

Any member of public may bring to the notice of the Council or any of its Members or the Secretary, information alleging incapacity or misconduct of a Judge.

The allegation may be supported by material which is sufficient in the opinion of the Council to commence enquiry.

The person providing the said information shall identify himself properly.

The information may be received through any mode by the Council or any Member of the Council, without being restricted to any of the following sources such as;

Print or electronic media;

Written Complaint.

Information received under sub-para (4) shall be entered in the Register maintained by the Secretary.

Cognizance by the Council: --

Without prejudice to the general requirement of receiving information in the manner provided for above, nothing in this Procedure shall be read to curtail or limit the jurisdiction of the

Council to initiate an enquiry against a Judge.

Procedure for scrutinizing information: --

Once any information in respect of enquiry into the conduct of a Judge is received by any Member or the Council, it shall be presented to the Chairman of the Council, who; shall refer the same to any Member of the Council to look into the said information; and to express his opinion in relation to sufficiency or otherwise of the information.

if the Council is satisfied that the information prima facie discloses sufficient material for an enquiry, it shall proceed to consider the same.

The Member, to whom the Chairman has referred the information, will examine the same and ascertain if the information so received discloses specific particulars of misconduct, and provides factual details necessary to form prima facie opinion in respect of the guilt of the Judge.

If the Member forms an opinion that the information does reveal sufficient material to commence enquiry, he shall inform the Council accordingly and the information shall be placed before the Council.

If the Member comes to a conclusion that the information is false, frivolous, concocted or untrue, he shall inform the Council accordingly and may recommend action against the person who initiated the information.

Enquiry by the Council: --

The Chairman may, call the meeting of the Council, for discussion and enquiry into the information received.

The information in respect of the conduct of a Judge shall be placed before the Council for examination.

If the Council is of the view that before forming an opinion, it should also hear the Judge under enquiry, it shall require the said Judge to present himself before the Council. The Council shall provide him the information and material received against him.

If the Council is of the opinion that it requires more material or seeks additional information before it can form any opinion, it shall direct accordingly.

The Council may, if necessary, secure the attendance of the person who has provided the information, for enquiry into any aspect of the information provided.

The Council may summon any expert, where the enquiry is in respect of the incapacity of a Judge and may order any medical investigation by local or foreign expert.

Without prejudice to the foregoing, the Council shall have inherent powers to adopt any procedure specific to the enquiry which is considered by the Council to be just and proper in the circumstances.

If the Council decides to proceed against a Judge, a show cause notice shall be issued to him along with supporting material calling upon him to explain his conduct within 14 days.

On receipt of reply from the Judge, Council shall convene its meeting to proceed further with the matter.

The Attorney-General for Pakistan and in his absence a senior counsel of the Supreme Court,

instructed by him, shall conduct a reference.

The Council may require the Attorney-General for Pakistan or any other counsel to appear and assist the Council in relation to smooth and efficient conduct of its proceedings.

Procedure of Council: --

In the event of a difference of opinion amongst the members of the Council regarding, further enquiry, granting right of hearing to the Judge concerned, securing attendance of the person providing information and related matters, opinion of the majority shall prevail.

In the event of a difference of opinion amongst the members of the Council whether the Judge concerned is guilty of misconduct, opinion of the majority shall prevail.

Report to the President of Pakistan: --

If the Council in its meeting, on conclusion of the proceedings forms an opinion, that the Judge concerned has been guilty of misconduct or incapacitated in the performance of his duties properly, it shall express its views accordingly and the same shall be communicated by the Chairman to the President as a Report of the Council for action under Article 209(6) of the Constitution of Islamic Republic of Pakistan.

Proceedings of the Council not to be reported: --

Proceedings of the Council shall be conducted in camera and shall not be open to public.

Only the findings of the proceedings shall be allowed to be reported.

Proceedings of the meetings of the Council or any other steps that Council may take shall not be reported, unless directed otherwise.

Punishment for frivolous information: --

Whenever the Council finds that the information or evidence provided to it was false in material particulars or with the sole intention to malign a Judge, or scandalizing the Court or to undermine it in any form whatsoever, it may direct action against all those who are found to have provided the said information, or evidence as the case may be.

For this purpose, the Council may direct the Secretary of the Council to pursue the course of action against the offender.

Council Secretariat: --

The Council shall have a permanent secretariat and in order to carry out the affairs and functions, the Council may appoint such officials and staff as deemed fit and proper.

The Council shall have a perpetual seal which shall be retained in the custody of the Secretary.

The Secretary of the Council shall be the custodian of the record and proceedings of the Council.

Powers to issue directions: --

The Council shall have the power to issue any directive, pass any order and prescribe the procedure for achieving the objects of the Council.

This procedure shall, mutatis mutandis, apply to proceedings against other office holders, who can be removed from office in the manner prescribed by Article 209 of the Constitution.”

http://scp.gov.pk/Pages/Judiciary/SJC_POI.aspx

Examples of the implementation

The Judges in the past have usually resigned before the conclusion of the cases. Justice Muhammad Farrukh Irfan Khan of the High Court resigned after facing an inquiry before the Supreme Judicial Council after his name was mentioned in the Panama Papers. These proceedings are held in camera and no record is available to public.

Name of Judge	Court	Result
Chief Justice of Pakistan, Iftikhar Muhammad Chaudhry	Supreme Court of Pakistan	Acquitted
Justice Shaukat Aziz Siddiqui	Islamabad High Court	Removed
Justice Muhammad Farrukh Irfan Khan	Lahore High Court	Resigned
Justice Muhammad Anwar Khan Kasi	Islamabad High Court	Acquitted
Justice Sayyed Muhammad Mazahar Ali Akbar Naqvi	Lahore High Court	Acquitted
Justice Mazhar Iqbal Sidhu	Lahore High Court	Resigned

(b) Observations on the implementation of the article

The procedures for the appointment and transfer of judges to the Supreme Court, high courts for each province and the Federal Shariat Court are defined in the Constitution. Vacant judicial positions for lower courts are publicly announced and advertised. The Judicial Commission appoints judges to the Supreme Court, high courts and the Federal Shariat Court. The President appoints the Chief Justice of Pakistan, who chairs the Judicial Commission. The Commission has different types of membership for the various categories of judge and it nominates, by majority, one person for each vacancy in the aforementioned courts. All judges of the Supreme Court are nominated by the President and the composition of the High Court is also determined by the President, who may also transfer high court judges, after consultation with the Chief Justice of Pakistan and the chief justices of the high courts. As outlined in the Supreme Judicial Council Procedure of Inquiry (2005), the Council is mandated to conduct inquiries into the capacity or conduct of judges of the Supreme Court and high courts; if the Council or the President is of the opinion that a judge should be removed from office on the basis of article 209 (6) of the Constitution, the President may remove that judge from office. Allegations of incapacity or misconduct, including acts of corruption, may serve as grounds for removal. This procedure also provides for sanctions for “frivolous” complaints. Pakistan has established special anti-corruption courts, with the President appointing judges for those courts for a tenure of three years. Under article 209 of the Constitution, the Supreme Judicial Council and an inspection team at the level of the high courts may conduct disciplinary actions against judges accused of misconduct. The Supreme Judicial Council Code of Conduct (2009) is observed by Supreme Court and high court judges. A code of conduct of 2008 is observed by members of the subordinate judiciary. There is a trust-based system for the declaration of conflicts of interest, with judges expected to recuse themselves when such conflicts arise. Judges are also subject to asset declaration requirements.

It is recommended that Pakistan take measures to enhance the independence of members of the judiciary and the prosecution service, including by reviewing the selection and removal procedures for high-level and key positions.

(c) Successes and good practices

Pakistan has established special anti-corruption courts and accountability courts at the provincial level.

Paragraph 2 of article 11

2. Measures to the same effect as those taken pursuant to paragraph 1 of this article may be introduced and applied within the prosecution service in those States Parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

Prosecution Service in the Islamic Republic of Pakistan is governed under the follow Act of the Parliament.

The Legal Practitioners and Bar Councils Act, 1973

<http://nasirlawsonline.com/laws/baract.htm>

The rules that govern the Act are called the Pakistan Legal Practitioners and Bar Councils Rules, 1976

<http://nasirlawsonline.com/laws/barrules.htm>

All the provinces have their own code of conduct for prosecution service which are governed under following acts of the respective Provincial Parliaments. The officers employed in prosecution service are also bound to act as per efficiency and discipline rules of the respective Provincial Government.

1. The Punjab Criminal Prosecution Service (Constitution, Functions and Powers) Act 2006

<http://punjablaws.gov.pk/laws/483.html>.

The 'Punjab Criminal Prosecution Service, (conditions of service) Service Rules,2007

https://pg.punjab.gov.pk/system/files/Punjab%20Criminal%20Prosecution%20Service%20Rules%2C2007_0.pdf

2. The Sindh Criminal Prosecution Service (Constitution, Functions and Powers) Act, 2009

<http://www.pas.gov.pk/uploads/acts/Sindh%20Act%20No.IX%20of%202010.pdf>

3. The [Khyber Pakhtunkhwa] Prosecution Service (Constitution, Functions and Powers) Act, 2005

[http://kp.gov.pk/uploads/2016/02/39_Prosecution_Service_\(Constitution,_Functions_and_Powers\)_Act,_2005_.pdf](http://kp.gov.pk/uploads/2016/02/39_Prosecution_Service_(Constitution,_Functions_and_Powers)_Act,_2005_.pdf)

The [Khyber Pakhtunkhwa] Prosecution Service Rules, 2005
http://kpcode.kp.gov.pk/uploads/The_Khyber_Pakhtunkhwa_Prosecution_Service_Rules_2005.pdf

4. The Balochistan Prosecution Service (Constitution, Functions and Powers) Act, 2003

<http://nasirlawsonline.com/laws/bps.htm>

The Balochistan Prosecution Service Rules, 2006

<https://drive.google.com/file/d/0BykVbxipUB95LXE3S3gzRnFCRWc/view>

Appointment of the Prosecutor General Accountability (“PGA”) is made under Section 8 of National Accountability Ordinance, 1999.

Prosecutor General Accountability

8. [(a) (i) The President of Pakistan, in consultation with the Chairman NAB, may appoint any person, who is qualified to be appointed as a Judge of the Supreme Court, as Prosecutor General Accountability.

(ii) The Prosecutor General Accountability shall hold independent office on whole time basis and shall not hold any other office concurrently. (iii) The Prosecutor General Accountability shall hold office for a [non-extendable] period of three years.

(iv) The Prosecutor General Accountability shall not be removed from office except on the grounds of removal of a Judge of Supreme Court of Pakistan.

(v) The Prosecutor General Accountability may, by writing under his hand addressed to the President of Pakistan, resign his office.]

(b) The Prosecutor General [Accountability] shall give advice to the Chairman NAB upon such legal matters and perform such other duties of a legal character as may be referred or assigned to him by the Chairman NAB and in the performance of his duties, he shall have the right of audience in all [Courts established under this Ordinance and all other Courts [including the Supreme Court and a High Court] and Tribunals].

[(c) The Prosecutor General Accountability, with the approval of Chairman NAB, may appoint Special Prosecutors to conduct prosecution of cases and to appoint advocates to institute or defend cases, appeals, petitions, applications and all other matters before any court [or tribunal including the High Courts and Supreme Court in matters arising out of or relating to proceedings under this Ordinance.]

(b) Observations on the implementation of the article

The Prosecution Service is governed by the prosecution laws of the relevant provinces, and, at the national level, prosecutors are appointed under the National Accountability Ordinance, Anti-Money-Laundering Act, the Custom Act (1969) and the Federal Investigation Agency Act. The selection and recruitment of prosecutors are conducted by the Public Service Commission, whose Chair heads the committee for the appointment of prosecutors. The removal procedure for prosecutors is the same as that for civil servants. All provinces have their own codes of conduct for the prosecution service, governed under acts of the respective provincial parliaments. The officers employed in the prosecution service are also bound by the efficiency and discipline rules of the respective provincial government. The prosecutors-general of the provinces, who also oversee prosecutions before the anti-corruption courts, are appointed by chief ministers and the respective governments and may be dismissed at will.

It is recommended that Pakistan take measures to enhance the independence of members of the judiciary and the prosecution service, including by reviewing the selection and removal procedures for high-level and key positions.

Article 12. Private sector

Paragraphs 1 and 2 of article 12

1. *Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.*

2. *Measures to achieve these ends may include, inter alia:*

(a) Promoting cooperation between law enforcement agencies and relevant private entities;

(b) Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;

(c) Promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;

(d) Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities;

(e) Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure;

(f) Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

1. Securities and Exchange Commission of Pakistan (“SECP”):

Measures to achieve these ends may include, inter alia:

(a) Promoting cooperation between law enforcement agencies and relevant private entities;

(b) Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;

(c) Promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;

(d) Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licenses granted by public authorities for commercial activities;

(e) Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure;

(f) Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures.

The Companies Act 2017 repealed Companies Ordinance 1984. The new law strengthens the regulatory framework while enhancing accounting and auditing standards in the corporate sector. It also prescribes proportionate civil, administrative, and criminal penalties for noncompliance. In addition, the act introduced a new section 208 of the Companies Act, 2017 on related party transactions for preventing conflicts of interest that is reproduced below:

“Related party transactions. (1) A company may enter into any contract or arrangement with a related party only in accordance with the policy approved by the board, subject to such conditions as may be specified. Further, Audit Oversight Board (AOB) has been established under the SECP Act 1997 under which all professional chartered accountant firms in Pakistan are regulated to ensure high standards of auditing in the country”.

Some of the control measures mentioned in para 2(a) to 2(f) have been specified in the corporate governance frameworks for designated classes of companies. The corporate governance framework for public sector companies laid down under the Public Sector Companies (Corporate Governance) Rules, 2013 contains various measures for prevention from conflict of interests, development of code of good conduct, development and implementation of an anti-corruption policy, setting up of an internal auditing mechanism, etc. Whereas for the Private sector, the Code of Corporate Governance Regulations 2017 discussed in detail in below section is the relevant framework.

Prevention from Conflict of Interests

There are certain provisions contained in the Companies Act, 2017 aimed at minimizing the conflicts of interests arising from the acts of companies or their directors or officers. Section 205 of the Act specifies that every director of a company who is in any way whether directly or indirectly interested in any contract or arrangement entered into or on behalf of the Company shall disclose the nature of his concern or interest and Section 206 specifies disclosure of interests to be made by officers of companies. Section 207 restricts the interested directors to participate or vote in the proceedings of the board. Section 208 requires approval of shareholders in respect of related party transactions undertaken by a company if majority of the directors are interested in the related party transaction. Every contract or arrangement entered into with related party shall be referred to board's report to the shareholders along with justification for entering into such contract and arrangement and detailed disclosures as required in International Accounting Standards and International Financial Reporting Standard as applicable in Pakistan.

As per Regulation 16 of Listed Companies Code of Corporate Governance Regulations 2017 (Regulations) which minimizes the conflict of interest for the purpose of consideration and decision by the board of directors on any agenda item, or in respect of any other matter, if any director has a conflict of interest therein in terms of the Act, then in addition to the provisions of section 207 of the Act and notwithstanding anything contained in the articles of association of a company, the directors shall ensure that the quorum of the meeting of the board shall not be deemed to be present unless at least two independent directors are also present at such meeting in person or through video link when such matter comes up for the first time for consideration of the board.

“205. Disclosure of interest by director. — (1) Every director of a company who is in any way, whether directly or indirectly, concerned or interested in any contract or arrangement entered into, or to be entered into, by or on behalf of the company shall disclose the nature of his concern or interest at a meeting of the board:

Provided that a director shall be deemed also to be interested or concerned if any of his relatives, is so interested or concerned.

Explanation. For the purpose of this section —“director’s relatives”, are—

(a) the director’s spouse;

(b) the director’s children, including the step children;

(c) the director’s parents;

(2) The disclosure required to be made by a director under sub-section (1) shall be made-

(a) in the case of a contract or arrangement to be entered into, at the meeting of the board at which the question of entering into the contract or arrangement is first taken into consideration or, if the director was not, on the date of that meeting, concerned or interested in the contract or arrangement, at the first meeting of the board held after he becomes so concerned or interested; and

(b) in the case of any other contract or arrangement, at the first meeting of the board held after the director becomes concerned or interested in the contract or arrangement.

(3) For the purposes of sub-sections (1) and (2), a general notice given to the board to the effect that a director is a director or a member of a specified body corporate or a partner of a specified firm and is to be regarded as concerned or interested in any contract or arrangement which may, after the date of the notice, be entered into with that body corporate or firm, shall be deemed to be a sufficient disclosure of concern or interest in relation to any contract or arrangement so made.

(4) Any such general notice shall expire at the end of the financial year in which it is given, but may be renewed for further period of one financial year at a time, by a fresh notice given in the last month of the financial year in which it would otherwise expire.

(5) No such general notice, and no renewal thereof, shall be of effect unless either it is given at a meeting of the board, or the director concerned takes reasonable steps to ensure that it is brought up and read at the first meeting of the board after it is given.

(6) Any contravention or default in complying with requirements of sub-sections (1) or (2), shall be an offence liable to a penalty of level 1 on the standard scale.

206. Interest of officers.— (1) Save as provided in section 205 in respect of directors, no other officer of a company who is in any way, directly or indirectly, concerned or interested in any proposed contract or arrangement with the company shall, unless he discloses the nature and extent of his interest in the transaction and obtains the prior approval of the board, enter into any such contract or arrangement.

(2) Any contravention or default in complying with requirement under this section shall be an offence liable to a penalty of level 1 on the standard scale.”

Transparency of legal persons and natural persons

FATF Recommendation 24 and Immediate Outcome 5 are respectively the technical and effectiveness standards relating to the transparency of legal persons.

In order to enhance the transparency and identification of ultimate beneficial owners of companies, SECP issued circular No. 16 of 2018 supplemented by circular no. 20 of 2018 requiring all the companies, having legal persons as their members, to maintain information about natural persons having not less than 10% of shareholding, voting or control rights in the companies. This information can be sought by the relevant authorities as and when needed. Besides, there are a number of provisions in the Companies Act, 2017 that ensure transparency of the natural and legal persons in the companies, including the following:

The beneficial ownership information is available in case the subscriber or member of a company is a legal person, whether a local or foreigner, in terms of the provisions of Companies (Incorporation) Regulations, 2017 and Companies (General Provisions & Forms) Regulations, 2018.

In terms of regulation 5(2) of the Companies (Incorporation) Regulations, 2017, at the time of company incorporation, a subscriber who is a legal person is required to provide certain particulars including its name, registration number (in case of local subscriber), registered office address, etc. besides copies of documents including copy of NIC/valid passport of the natural person authorized by the BOD of the subscriber, and copy of the BOD resolution.

In case the subscribing legal person is a foreign company or body corporate, the additional information that needs to be provided include, but is not limited to, the profile of the company, detail of its directors, their nationality and country of origin, copy of its charter, statute or memorandum and articles etc., certified in the manner as specified in regulation 15 of Incorporation Regulations, 2017 as amended in 2018. Regulation 15(2) specifies that in case the subscriber to the memorandum is a foreign national residing outside Pakistan, he may be required to file additional documents as deemed necessary by the registrar. Further, security clearance from Ministry of Interior is required in case of foreign subscribers/officers, as per procedure specified in regulation 15(3).

After a company is formed, it is required to maintain a register of members in terms of regulation 19 of Companies (General Provisions & Forms) Regulations 2018 read with sections 119 and 122 of the Companies Act, 2017. Detailed particulars are required to be maintained in case of a nominee/authorized representative of a legal person if it is a member of the company. These include full name, NIC/Passport number, nationality, mobile number, email address, usual residential address, occupation, etc. The annual return of the company required under section 130 of the Companies Act, 2017 contains an extract of the register of members and directors is filed with the office of the registrar concerned, and becomes public record.

Further, section 465 of the Act read with regulation 14 of the Companies (General Provisions & Forms) Regulations, 2018 requires notification of change of more than 25% in shareholding or membership or voting rights of a company within 15 days of the change, containing information about the transferor as well as the transferee.

The Asia Pacific Group on Money Laundering conducted an assessment of the country's AML/CFT regime, and issued a mutual evaluation report in 2019, which highlighted a few gaps pertaining to Recommendation 24, including the following:

- Lack of express prohibition in the laws on the issuance of bearer shares and bearer share warrants by the companies
- Lack of requirements to obtain, maintain updated information on the ultimate beneficial owners of companies and limited liability partnerships
- Lack of mitigating measures to address the risks associated with nominee shareholders or nominee directors, and lack of requirement to disclose the identity of nominator to the company or registry

Accordingly, in order to address the aforesaid identified gaps, SECP has proposed changes to the Companies Act, 2017 and Limited Liability Partnership Act, 2017. Corresponding changes have also been proposed in the subordinate regulations including the Companies (Incorporation) Regulations, 2017, Companies (General Provisions & Forms) Regulations, 2018, Foreign Companies Regulations, 2018, and Limited Liability Partnership Regulations, 2018.

Audit of Financial Statement of Companies

Section 247 of the Act specifies a chartered accountant to be appointed as an auditor of a company if it is a public company or a private company which is subsidiary of a public company or a private company having paid up capital of three million rupees or more. Other companies can be audited either by chartered accountants or cost and management accountants.

Further, the Third Schedule to the Companies Act, 2017 specifies applicability of relevant accounting framework for different classes of companies in terms of which all the public interest and large sized companies are subject to the requirements of International Financial Reporting Standards and either the Fourth Schedule or Fifth Schedule of the Act specifying disclosure

requirements. All other companies are required to follow the Accounting and Financial Reporting Standards for Small Sized Entities and the Fifth Schedule to the Act.

Following summarizes steps taken by Pakistan to ensure full compliance with the provision of the Convention:

Prevention of corruption:

Accounting and auditing standards applicability:

i) Accounting standards applicability

Companies Act, 2017 prescribes different financial reporting frameworks for different kind of companies depending on their size and Companies, which are listed companies or public interest companies are required to prepare their Financial Statements on the basis of International Financial Reporting Standards. Applicable Financial reporting frameworks prescribed under Third schedule to Companies Act, 2017 applicable on different kind of companies are as follows:

S. No.	Classification Criteria of Company	Applicable Accounting Framework	Relevant Schedule of Companies Act
1.	Public Interest Company & Large Sized Company (PILSC) Sub-categories of PILSC:		
a)	Listed Company	International Financial Reporting Standards	Fourth Schedule
b)	Non-listed Company which is: (i) a public sector company as defined in the Act; or (ii) a public utility or similar company carrying on the business of essential public service; or (iii) holding assets in a fiduciary capacity for a broad group of outsiders, such as a bank, insurance company, securities broker/dealer, pension fund, mutual fund or investment banking entity.	International Financial Reporting Standards	Fifth Schedule
c)	Non-listed Company with: (i) paid-up capital of Rs. 200 million or more; or (ii) turnover of Rs. 1 billion or more; or (iii) employees more than 750; or (iv) such number of members holding ordinary shares as may be notified; or (v) assets exceeding such value as may be notified.		
d)	Foreign Company with turnover of Rs. 1 billion or more.		
e)	Non-listed Company licenced / formed under	International	Fifth

	Section 42 / Section 45 of the Act having annual gross revenue (grants/income/subsidies/donations) including other income/revenue of Rs. 200 million and above.	Financial Reporting Standards and Accounting Standards for NPOs	Schedule
2	Medium Sized Company (MSC) Sub-categories of MSC:		
a)	Non-listed Public Company with: (i) paid-up capital less than Rs.200 million; (ii) turnover less than Rs1 billion; (iii) Employees more than 250 but less than 750.	International Financial Reporting Standards for SMEs	Fifth Schedule
b)	Private Company with: (i) paid-up capital of greater than Rs. 10 million but not exceeding Rs. 200 million; (ii) turnover greater than Rs. 100 million but not exceeding Rs. 1 billion; (iii) Employees more than 250 but less than 750.		
c)	A Foreign Company which has turnover less than Rs. 1 billion.		
d)	Non-listed Company licenced / formed under Section 42 or 45 of the Act which has annual gross revenue (grants/income/subsidies/donations) including other income or revenue less than Rs.200 million.	Accounting Standards for NPOs	Fifth Schedule
3	Small Sized Company (SSC) A private company having: (i) paid-up capital up to Rs. 10 million; (ii) turnover not exceeding Rs.100 million; (iii) Employees not more than 250.	Revised AFRS for SSEs	Fifth Schedule

It may be noted that all financial reporting frameworks prescribed under Third schedule of Companies Act, 2017 are fair presentation framework.

Moreover, Companies Act, 2017 allows companies intending to prepare their Financial Statements in accordance with IFRS as sub-section (4) of section 225 of the Companies Act, 2017 provides that *any company that intends to make unreserved compliance of IFRS issued by IASB shall be permitted to do so.*

Pakistan has adopted most of the IFRS/ IAS issued by the IASB.

ii) Auditing standards applicability

Section 249 of the Companies Act, 2017 requires Auditor's to conduct audit in accordance with requirements of ISA. Section 249 of the Companies Act, 2017 provides that *a company's auditor shall conduct the audit and prepare his report in compliance with the requirements of International Standards on Auditing as adopted by the Institute of Chartered Accountants of Pakistan.*

Institute of Chartered Accountants of Pakistan ("ICAP") is primarily responsible for adoption of

auditing standards in Pakistan. ICAP has adopted all *International Standards on Auditing* issued by the International Auditing and Assurance Standard Board (“IAASB”). Following table summarizes ISA adoption status in Pakistan:

ISA Adoption Status as of July 2018

International Standards on Auditing

200-299	General Principles and Responsibilities
ISA 200	Overall Objectives of the Independent Auditor and the Conduct of an Audit in accordance with International Standards on Auditing
ISA 210	Agreeing the Terms of Audit Engagements
ISA 220	Quality Control for an Audit of Financial Statements
ISA 230	Audit Documentation
ISA 240	The Auditor’s Responsibilities Relating to Fraud in an Audit of Financial Statements
ISA 250	Consideration of Laws and Regulations in an Audit of Financial Statements (Revised)
ISA 260	Communication with Those Charged with Governance (Revised)
ISA 265	Communicating Deficiencies in Internal Control to Those Charged with Governance and Management
300-499	Risk Assessment and Response to Assessed Risks
ISA 300	Planning an Audit of Financial Statements
ISA 315	Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and Its Environment (Revised)
ISA 320	Materiality in Planning and Performing an Audit
ISA 330	The Auditor’s Responses to Assessed Risks
ISA 402	Audit Considerations Relating to an Entity Using a Service Organization
ISA 450	Evaluation of Misstatements Identified during the Audit
500-599	Audit Evidence

ISA 500	Audit Evidence
ISA 501	Audit Evidence-Specific Considerations for Selected Items
ISA 505	External Confirmations
ISA 510	Initial Audit Engagements-Opening Balances
ISA 520	Analytical Procedures
ISA 530	Audit Sampling
ISA 540	Auditing Accounting Estimates and Related Disclosures (Revised)
ISA 550	Related Parties
ISA 560	Subsequent Events
ISA 570	Going Concern (Revised)
ISA 580	Written Representations
600- 699	Using the Work of Others
ISA 600	Special Considerations - Audits of Group Financial Statements (Including the Work of Component Auditors)
ISA 610	Using the Work of Internal Auditors
ISA 620	Using the Work of an Auditor's Expert
700- 799	Audit Conclusions and Reporting
ISA 700	Forming an Opinion and Reporting on Financial Statements (Revised)
ISA 701	Communicating Key Audit Matters in the Independent Auditor's Report (New)
ISA 705	Modifications to the Opinion in the Independent Auditor's Report (Revised)
ISA 706	Emphasis of Matter Paragraphs and Other Matter Paragraphs in the Independent Auditor's Report (Revised)
ISA	Comparative Information-Corresponding Figures and Comparative

710	Financial Statements
ISA 720	The Auditor's Responsibilities Relating to Other Information in documents Containing Audited Financial Statements (Revised)
800- 899	Specialized Areas
ISA 800	Special Considerations-Audits of Financial Statements prepared in Accordance with Special Purpose Frameworks (Revised)
ISA 805	Special Considerations-Audits of Single Financial Statements and Specific Elements, Accounts or Items of a Financial Statement (Revised)
ISA 810	Engagements to Report on Summary Financial Statements (Revised)
International Auditing Practice Notes	
IAPN 1000	Special Considerations in Auditing Financial Instruments
International Standards on Review Engagements (ISREs)	
ISRE 2400	Engagements to Review Financial Statements (Revised)
ISRE 2410	Review of Interim Financial Information Performed by the Independent Auditor of the Entity
International Standards on Assurance Engagements (ISAEs)	
ISAE 3000	Assurance Engagements Other than Audits or Review of Historical Financial Information (Revised)
ISAE 3400	The Examination of Prospective Financial Information
ISAE 3402	Assurance Reports on Control at a Service Organisations
ISAE 3410	Assurance Engagements On Greenhouse Gas Statements
ISAE 3420	Assurance Engagements to Report on the Compilation of Pro Forma Financial Information Included in a Prospectus
International Standards on Related Services (ISRSs)	
ISRS 4400	Engagements to Perform Agreed-Upon Procedures Regarding Financial Information
ISRS 4410	Compilation Engagements (Revised)

Notes:

1. The clarified ISAs issued by IAASB comprised of 36 ISAs. ICAP adopted the clarified ISAs (except ISA 600) through Circular No. 12 of 2010, effective for the audits of financial statements for periods beginning on or after December 15, 2010.

2. ICAP adopted ISA 600 through Circular No. 5 of 2015, effective for audits of financial statements for periods beginning on or after July 1, 2015.
3. IAASB issued the new ISA 701, which deals with the auditor's responsibility to communicate Key Audit Matters in the auditor's report. ICAP has adopted ISA 701 through Circular No. 7 of 2016, effective for audits of financial statements for periods ending on or after December 15, 2016.
4. IAASB has revised ISA 540 which will become effective for financial statement audits for periods beginning on or after December 15, 2019.
5. In case IAASB makes subsequent revisions/ amendments to the ISA/s, such revisions / amendments would be deemed adopted by ICAP and accordingly would be applicable from the IAASB prescribed effective date.
6. ICAP has also adopted all ISREs, ISAEs and ISRSs.

Moreover, to ensure full compliance with International Standards on Auditing, ICAP has deemed adopted any revision/ amendment to adopted standards.

Penalties:

Companies Act, 2017 provides effective, proportionate and dissuasive civil as well as criminal penalties upon failure to comply with provision of the 2017. There are various penalties prescribed under Companies Act, 2017 depending on severity of the offence involved, which includes civil as well as penal liabilities. While there are various civil penalties for various type of non-compliances, Companies Act, 2017 has categorized these civil penalties on 3 scales, level 1, level 2 and level 3 depending on severity of the offence involved. Section 479 of the Act provides standard scale as follow:

Level	Limit of penalty	Per day penalty during which the default continues
1	Up to Rs.25,000	Up to Rs.500
2	Up to Rs.500,000	Up to Rs.1,000
3	Up to Rs.100 million	Up to Rs.500,000

While there are number of offences for which there is criminal penalty including imprisonment and fine.

CURRENT REGIME IN PLACE REGARDING MEASURES TO ACHIEVE THE STATED GOALS:

Promoting cooperation between law enforcement agencies and relevant private entities

SECP actively engage with law enforcement agencies and refers investigations/ inquiry to other law enforcement agencies including NAB for taking cognizance as per provisions of their applicable

laws. Section 41b of the SECP Act empowers SECP to refer investigation to any law enforcement agency.

Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State

Pakistan has robust corporate regulatory framework in place and in this connection, SECP has issued Listed Companies (Code of Corporate Governance) Regulations, 2017 for providing governance framework for management and regulation of listed entities.

Code of Corporate Governance Regulations contains best practices for governance and regulations of listed companies and provides for formation of various oversight committees of the Board of Directors for providing effective oversight of listed companies.

Code of corporate governance regulations cover various key governance areas and provide for prevention of conflict of interest, promotion of the use of good commercial practices among businesses and honorable and proper performance of the activities of business and relevant professions. Code of Corporate Governance Regulations covers number of topics including diversity in the composition of Board of Directors, independent director, requirements as to Chairman of Board of Directors, responsibilities of board of directors, BOD meetings, issues to be placed before Board of Directors, related party transactions, conflict of interest, remuneration of Directors, directors training program, qualification, appointment and removal of key management personnel including Chief Finance Officer, Company Secretary and Head of Internal Audit, responsibility for financial reporting and corporate compliance, committees of BOD (Audit Committee, Human Resource and Remuneration Committee, Risk management committee), internal audit composition & reporting lines, external auditor's term of appointment and rotation policy, reporting and key disclosures in Director's Report.

Moreover, SECP has also issued code of corporate governance for non-listed companies, which contain best corporate practices for management of affairs of the Company.

Beside code of corporate governance, under Companies Act, 2017 Board of Directors are under fiduciary duty to act in the best interest of shareholders of the Company. Moreover, there are various duties imposed on the Board of Directors to act in good faith in order to promote the objects of the Company for the benefit of its members as a whole, and in the best interests of the Company, its employees, the shareholders, the community and for protection of the environment.

SECP, has also issued number of guidelines/ best practices for facilitating ease of doing business and for informing the general public regarding key compliance issues to be complied with by the Companies.

Promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;

Statement of beneficial ownership is required to be filed by the Directors, Chief Executive Officer, or substantial shareholder of a listed company in accordance with requirements of section 101 of the Securities Act, 2015, detailing therein securities beneficially held by them.

Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during

their tenure.

Code of conduct of SECP prohibit employees of SECP from accepting employment with a regulated entity or serve as a member of board of directors or other governing body of a regulated entity within the first 6 months of leaving the SECP. Clause 1.4.5 of the Code of conduct is reproduced below:

“We shall not accept employment with a regulated entity or serve as a member of the board of directors or other governing body of a regulated entity within the first 6 months of leaving the SECP, if, during the 6 months before leaving the SECP, we had:

- substantial involvement with that regulated entity, and
- access to confidential information that, if disclosed to the regulated entity, could result in harm to the SECP or could give the regulated entity an unfair advantage in relation to other parties.

For employees and commissioners, the Commission has the authority to determine the substantial involvement and access to confidential information”.

Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures.

In Pakistan, Code of Corporate Governance Regulations 2017 requires listed companies to establish internal audit function. Subject Regulations also prescribe other terms and conditions including independence of internal audit function.

Moreover, code of corporate governance regulations also entail qualification required for appointment as head of internal audit and also provides for appointment and removal of head of internal audit.

Accounts of every company having paid up capital exceeding Rs 10 million, duly audited by practicing Chartered Accountant, are required to be filed by the Company with the Registrar. Moreover, only practicing Chartered Accountant (member of ICAP), is allowed to conduct audit of Accounts of Company having paid up capital of Rs 3 million or more, whereas, below Rs 3 million, practicing Chartered Accountant or Cost and Management Accountant can audit financial statements.

Audit of listed companies can only be carried out by Chartered Accountant’s firm having satisfactory QCR rating. Moreover, for effective and efficient oversight of auditor, Pakistan has established Audit Oversight Board.

SECP has 115,661 registered companies as on 6th March, 2020, having legal or natural persons as their members. SECP has registered 634 Limited Liability Partnerships registered upto 6th March, 2020. The Corporatization and Compliance Department at SECP has forwarded five cases of fraudulent practices including MLM, illegal deposit taking etc. to NAB.

There are 458 listed companies on which Listed Companies (Code of Corporate Governance) Regulations, 2017 are applicable. Further, Establishment of internal audit function is applicable on listed companies under Listed Companies (Code of Corporate Governance) Regulations, 2017.

Independent Directors:

Independent director roles broadly include improving corporate credibility and governance standards functioning, and playing a vital role in risk management. Independent directors play

an active role in various committees set up by company to ensure good governance. Regulations 6 of the Listed Companies (Code of Corporate Governance) Regulations, 2017 elucidated that (1) The independent directors of each listed company shall not be less than two members or one third of the total members of the board, whichever is higher: Provided that for the purpose of electing independent directors, the board shall be reconstituted not later than expiry of its current term pursuant to effective date of these Regulations. (2) Every independent director shall submit along with his consent to act as director, a declaration to the company that he qualifies the criteria of independence notified under the Act. Every independent director shall give such declaration to chairman of board at first meeting in every financial year as well as on an event of any change affecting his independence.

The link for Companies Act, 2017 is as follows:

http://www.na.gov.pk/uploads/documents/1487136261_767.pdf

It is the domain of SECP.

The accounting and financial reporting framework for all companies in Pakistan is stipulated in the Companies Act of 2017 (formerly Companies Ordinance of 1984). The Act outlines the requirements for the presentation of financial statements, establishes standard-setting procedures as well as other financial reporting obligations. All companies are required to prepare financial statements. Under the Act, ICAP is also responsible for adopting and issuing auditing standards.

Accounting Framework

Under the Companies Act of 2017, accounting standards are approved for use as adopted by the Securities and Exchange Commission of Pakistan (SECP). The SECP, however, has delegated the responsibility of developing and adopting accounting standards to the Institute of Chartered Accountants of Pakistan (ICAP). ICAP has adopted the International Financial Reporting Standards (IFRS). Under the Companies Act, listed companies (including foreign companies listed in Pakistan), public interest companies (including public sector companies, public utility companies, financial institutions, and companies in the process of being listed), and large-sized non-listed companies (companies with paid-up capital exceeding 200 million rupees or with an annual turnover exceeding 1 billion rupees) are required to apply IFRS in the preparation of their financial statements.

Medium-sized companies, defined in Pakistan as all companies other than listed, public interest, large-sized, and small-sized can either choose to use IFRS for SMEs or full IFRS.

Small-sized entities defined as companies with paid-up capital not exceeding 25 million rupees and with turnover not exceeding 100 million rupees, can choose to use Accounting and Financial Reporting Standards for Small-Sized Entities (AFRS for SSEs), IFRS for SMEs, or full IFRS.

The Insurance Ordinance of 2000 establishes financial reporting requirements for insurance companies. Under the Ordinance, insurance companies are required to follow financial reporting standards issued by ICAP. Under the Banking Companies Ordinance, the State Bank of Pakistan (SBP) is responsible for setting financial reporting requirements for banks and similar financial institutions. The SBP requires banks and financial institutions to submit audited financial statements prepared and audited according to the standards issued by ICAP.

Auditing Framework

Under the Companies Act of 2017, ICAP is responsible for adopting and issuing auditing standards to be applied in Pakistan, and the institute has adopted the revised 2016 ISA. Under the Companies Act, all companies, except for private limited companies with paid up capital below one million rupees, are to be audited following auditing standards adopted and issued by ICAP. The Act

indicates that financial statements of companies with paid up capital below one million rupees does not require an audit but still requires submission to the SECP.

Regulation of Accountancy Profession

In 2016, the Securities and Exchange Commission of Pakistan (SECP) made amendments to the Securities and Exchange Commission of Pakistan Act of 1997 that established an independent Audit Oversight Board (AOB) with the responsibility to regulate the auditing profession.

The Securities and Exchange Commission of Pakistan Act of 1997 (amended in 2016) establishes the functions of the AOB, which include: (i) overseeing and monitoring the work of the Institute of Chartered Accountants of Pakistan (ICAP) Quality Assurance Board (QAB) and Quality Control Review (QCR) program; (ii) registering all firms that have achieved a satisfactory QCR rating and deregistration of firms based on the outcome of the QCR by the QAB; and (iii) ensuring that auditing standards adopted by ICAP are aligned with the International Standards on Auditing as issued by the International Auditing and Assurance Standards Board (IAASB). Other professional accountants are regulated by the three professional accountancy organizations (PAO), which oversee the activities of the main streams of accountants in Pakistan: Chartered Accountants (CAs), Cost and Management Accountants (CMAs), and Public Finance Accountants (PFAs).

Penalty for false statement, falsification, forgery, fraud and deception etc. in relations to affairs of the company or body corporate has been prescribed in section 496 of the Companies Act, 2017 which shall be punishable with imprisonment which shall not be less than one year but which may extend to seven years and shall also be liable to fine which shall not be less than the amount involved in the fraud but may extend to three times the amount involved in the offence provided further that in case of offence involves public interest, the term of imprisonment under this section shall not be less than three years along with fine.

Public Procurement Regulatory Authority (“PPRA”)

PPRA is mandated to lay down codes of ethics, standards and procedures for public procurement, inspection or quality of goods, services and works, and effective implementation of these codes and standards and awareness of procurement culture shall definitely reduce the elements of bid rigging and collusive practices in both public and private sector. Moreover, the regulators are also mandated to make enforcement regulations to ensure the effective implementation of its regulatory framework. Procurements audits (including compliance audits, performance audits and Value for Money Audits) are required to be conducted for Mega Projects, and such auditing standards are essential to be developed by the procurement regulators.

NAB

Under Section 33-B of the NAO, 1999, all Ministries, Divisions and attached Departments of the Federal Government, all departments of Provincial and local governments, statutory corporations or authorities established by the Federal Government or Provincial Government and holders of public office shall furnish to NAB a copy of any contract entered into by them of the minimum monetary value of fifty million rupees or more. Under the provision NAB used to receive contracts of Rs. 50 Million and above, scrutinize the same and recommend corrective measures if found any discrepancies.

SECP

Under the Companies Act 2017, laws administered by the SECP, the companies are required to maintain their books of accounts and annual audit requirements are in place. In the third Schedule

to the Act, the applicable accounting framework is defined for Listed Companies and Non-Listed Companies (according to the size of unlisted entity) which are IFRS, IFRS for NPOs and AFRS. All the IFRS are applicable in Pakistan except for few exemptions. Pakistan has adopted the International Auditing Standards issued by IFAC through IAASB. The accounts of the entities are audited by the professional firm of Chartered Accountants which gives reports to the shareholders on the compliance status of the Company with the applicable accounting framework and the provisions of the Companies Act, 2017 and the reports contains the key audit matters regarding that entity and how the matter was addressed by the auditor, responsibility of the management and of the auditors and compliance of company with other legal & regulatory requirements under the law.

Moreover, under the Act, the Commission also conducts the onsite inspections of the books and accounts of the company for any default, misrepresentations etc. and appropriate action is taken under the law which includes referring the matter to Court of Law or the investigation agencies (i.e. NAB/FIA)

Section 220 of the Companies Act, 2017 specifies the requirements for maintenance of books of account by every company, as follows:

2. Every company shall prepare and keep at its registered office books of account and other relevant books and papers and financial statements for every financial year which give a true and fair view of the state of the affairs of the company, including that of its branch office or offices, if any

3. Where a company has a branch office in Pakistan or outside Pakistan, it shall be deemed to have complied with the provisions of sub-section (1), if proper books of account relating to the transactions effected at the branch office are kept at that office and proper summarized returns are sent periodically by the branch office to the company at its registered office or the other place referred to

4. The books of account of every company relating to a period of not less than ten financial years immediately preceding a financial year, or where the company had been in existence for a period less than ten years, in respect of all the preceding years together with the vouchers relevant to any entry in such books of account shall be kept in good order.

5. If a company fails to comply with any of the requirements of this section, every director, including chief executive and chief financial officer, of the company who has by his act or omission been the cause of such default shall-

(a) in respect of a listed company, be punishable with imprisonment for a term which may extend to two year and with fine which shall not be less than five hundred thousand rupees nor more than five million rupees, and with a further fine which may extend to ten thousand rupees for every day after the first during which the default continues; and

(b) in respect of any other company, be punishable with imprisonment for a term, which may extend to one year and with fine which may extend to one hundred thousand rupees.

Section 249 of the Companies Act, 2017 specifies the duties of auditor who is required to conduct the audit and prepare his report in compliance with the requirements of International Standards on Auditing as adopted by the Institute of Chartered Accountants of Pakistan. The auditor shall carry out such examination to enable him to form an opinion as to whether adequate accounting records have been kept by the company and returns adequate for their audit have been received from branches not visited by him; and whether the company's financial statements are in agreement with the accounting records and returns.

The auditor is required under the law to make out a report to the members of the company on the accounts and books of accounts of the company and on every financial statement and on every other

document forming part of such statements and the report shall state:

- (a) whether or not they have obtained all the information and explanations which to the best of their knowledge and belief were necessary for the purposes of the audit and if not, the details thereof and the effect of such information on the financial statements;
- (b) whether or not in their opinion proper books of accounts as required by this Act have been kept by the company;
- (c) whether or not in their opinion the statement of financial position and profit and loss account and other comprehensive income or the income and expenditure account and the cash flows have been drawn up in conformity with the requirements of accounting and reporting standards as notified under this Act and are in agreement with the books of accounts and returns;
- (d) whether or not in their opinion and to the best of their information and according to the explanations given to them, the said accounts give the information required by this Act in the manner so required and give a true and fair view-
 - (i) in the case of the statement of financial position, of the state of affairs of the company as at the end of the financial year;
 - (ii) in the case of the profit and loss account and other comprehensive income or the income and expenditure account, of the profit or loss and other comprehensive income or surplus or deficit, as the case may be, for its financial year; and
 - (iii) in the case of statement of cash flows, of the generation and utilization of the cash and cash equivalents of the company for its financial year;
- (e) whether or not in their opinion-
 - (i) investments made, expenditure incurred and guarantees extended, during the year, were for the purpose of company's business; and
 - (ii) Zakat deductible at source under the Zakat and Usher Ordinance, 1980 (XVIII of 1980), was deducted by the company and deposited in the Central Zakat Fund established under section 7 of that Act.

Where any of the matters referred to above is answered in the negative or with a qualification, the report shall state the reason for such answer along with the factual position to the best of the auditor's information. The auditor shall express unmodified or modified opinion in his report in compliance with the requirements of International Standards on Auditing as adopted by the Institute of Chartered Accountants of Pakistan.

The Commission may, by general or special order, direct that, in the case of all companies generally or such class or description of companies as may be specified in the order, the auditor's report shall also include a statement of such additional matters as may be so specified. Further, the Commission may by general or special order, direct, that the statement of compliance as contained in sub-section (4) of section 227 of this Act, shall be reviewed by the auditor who shall issue a review report to the members on the format specified by the Commission.

Section 252 and 253 of the Act specifies imposition of penalty by the Commission for non-compliance with provisions by companies and auditors respectively. Section 252 specifies that any contravention or default in complying with requirements of sections 246, 247, 248 and 250 shall be an offence liable to a penalty of level 3 on the standard scale. Section 253 specifies that if any auditor's report or review report is made, or any document of the company is signed or authenticated otherwise than in conformity with the requirements of section 131, sections 249 and 251 or is otherwise untrue or fails to bring out material facts about the affairs of the company or matters to

which it purports to relate, the auditor concerned and the person, if any, other than the auditor who signs the report or signs or authenticates the document, and in the case of a firm all partners of the firm, shall be liable to a penalty of level 2 on the standard scale.

NAB

Under section 33-C of the NAO, 1999 NAB has the mandate to constitute Prevention Committees consisting of all stakeholders to examine laws, rules regulations, procedures to identify loopholes / grey areas and recommend amendments in such laws, rules, regulations and procedures (SOP's) as the case may be to plug the loopholes / grey areas so as to eliminate corruption and corrupt practices. Salient works carried out under the Prevention regime are listed below.

1. Prevention Committee on Health, Sub-Committee - 9 on Procurement of Drugs Medicines & Medical Instruments

Prevention Committee for "Reformation of Ministry of National Health Services Regulations & Coordination (NHSR&C) and attached / subordinate offices" was constituted by Chairman NAB. Under the mandate of this committee 9 x sub-committees were constituted. Focus of this committee was to look into the matters of "Procurement of Drugs, Medicines and Medical Instruments (Devices) by different hospitals". The committee held 10 x meetings in which the recommendations were thoroughly deliberated and finalized. The recommendations have been forwarded to the Ministry of Health for implementation with the approval of Chairman NAB.

2. Prevention Committee on Press information Department

The subject Prevention Committee was constituted by Chairman NAB under section 33-C of NAO, 1999 to examine the laws in force of the Press Information Department (PID) and to recommend amendments in order to eliminate corruption and corrupt practices. The committee held 9 x meetings in which the recommendations were thoroughly deliberated. The committee has finalized its recommendations and forwarded the same to concerned quarters for implementation.

3. Prevention Committee on "Economic Recovery and to Address Reservations / Genuine Grievances of Businessman"

The subject Prevention Committee was constituted under the mandate of section 33-C of NAO, 1999 by Chairman NAB taking into account the concerns of Businessmen and current economic conditions of Pakistan. First meeting of the Committee was held on 25th November 2019 at NAB HQ Islamabad under the chair of Deputy Chairman NAB. Leaders from business community appreciated NAB's efforts for taking initiative to redress the grievances / reservations of business community, which will result into the lessening of fear amongst them. Members of the business committee emphasized that they are willing to go to any extent to support NAB in its cause and assured their full cooperation / assistance in cases related to the business community.

4. Prevention Committee on Standardization of Terms & Conditions for Pre-Qualification of Contracts, Tender / Bid Documents / Contract Agreement & Designs / Specifications of Building Project

A Prevention Committee under the mandate of section 33-C of NAO, 1999 has been constituted by Chairman NAB. Letters have been forwarded to different departments for seeking nominations of committee members. First meeting will be convened / planned after the finalization of nominations of all officers.

5. Prevention Committee on Capital Development Authority (CDA)

The draft recommendations of the subject committee have been prepared and shared with all

concerned departments for getting their valuable comments / suggestions / inputs. Meetings were held with the management of CDA on the developments that have taken place. The issues which were under consideration of the committee have also been simultaneously taken up by Hon'ble Islamabad High Court (IHC) and Hon'ble Supreme Court of Pakistan (SCP) on the petitions of the citizens. Subsequent discussions have been held with all the line formations of CDA and other public sector stakeholders for improvements in the draft recommendations. It has also been agreed that the draft recommendations will be reviewed after final judgments by the Hon'ble (IHC) and the (SCP).

6. Prevention Committee on Pakistan Railways

A meeting of the subject Prevention Committee was held with Secretary, Pakistan Railway Advisory & Consultancy Services (PRACS) in September 2019 at NAB HQ Islamabad for discussing the role and achievements of PRACS.

In the meeting, Secretary (PRACS) gave a presentation on the working of PRACS. He apprised regarding the vision, mission statement and the objectives of the organization. He further explained the organizational structure of the organization and highlighted the financial performance of PRACS for the year 2017-2018.

7. Prevention Committee on National Fertilizer Marketing Limited (NFML) (NAB HQ)

During the 2nd meeting of the subject committee, NFML was directed to ensure standardized weight and availability of urea at uniform price throughout the country. In addition, NFML was advised to utilize Government transportation facilities such as Pakistan Railways as primary means of transportation of fertilizer, etc. Accordingly, compliance report on the initial recommendations was forwarded by NFML. The same was discussed internally and it was felt that NFML is required to have a standard transport policy. Therefore, the same was conveyed to NFML.

8. Regional Bureau's Prevention Committees

During the year, A&P Division held several video conferences with Regional Bureaus on the recommendations submitted by them on various Prevention Committees ongoing at their end. After due consultation, the recommendations were processed and finalized by (A&P) Division and submitted to Chairman NAB for his perusal and approval. The following committee's recommendations at Regional level were approved by Chairman NAB.

9. Prevention Committee on "Canal Irrigation System (Mogahs)". The committee had drafted its recommendations and were reviewed and approved by Chairman NAB. Consequently, the same were forwarded to concerned departments for implementation.

10. Prevention Committee on "Procurement of Sugarcane and delayed Payments by Sugar Mills to Farmers". The committee drafted its recommendations and were examined & approved by Chairman NAB. Consequently, the same were forwarded to concerned departments for implementation.

Examples of the implementation

More than 50 contracts of work More than 50 Million were evaluated during the last year by NAB.

SECP has 115,661 registered companies as on 6th March, 2020, having legal or natural persons as their members. SECP has registered 634 Limited Liability Partnerships registered upto 6th March, 2020. The Corporatization and Compliance Department at SECP has forwarded five cases of fraudulent practices including MLM, illegal deposit taking etc. to NAB.

There are 458 listed companies on which Listed Companies (Code of Corporate Governance)

Regulations, 2017 are applicable. Further, Establishment of internal audit function is applicable on listed companies under Listed Companies (Code of Corporate Governance) Regulations, 2017.

(b) Observations on the implementation of the article

The Companies Act provides the regulatory framework and auditing standards for the corporate sector. The Act also contains provisions aimed at minimizing conflicts of interests arising from the acts of companies or their directors or officers, and prescribes civil, administrative and criminal penalties for non-compliance.

In addition, SECP has issued the Listed Companies (Code of Corporate Governance) Regulations (2017) and Public Sector Companies (Corporate Governance) Rules (2013), which endorse various measures for preventing conflicts of interest, developing codes of conduct, developing and implementing an anti-corruption policy, and ensuring professional standards and corporate values are in place that promote values such as integrity. SECP has supervisory powers in terms of the implementation of the policy.

The Companies (Amendment) Act (2020) and the Limited Liability Partnership Amendment Act (2020) were enacted to introduce requirements for all companies under section 123A of the Companies Act and limited liability partnerships under section 8 (2) of the Limited Liability Partnership Act (2017) to obtain, maintain and provide timely updates of the particulars of the ultimate beneficial owner (including any change thereto) and to submit an annual declaration of compliance in this regard to SECP.

Furthermore, the Companies Act prohibits the issuance of bearer shares or bearer share warrants. Moreover, the Companies (Amendment) Act requires that all existing bearer shares or bearer share warrants be cancelled or registered.

Reporting entities (securities brokers, commodities brokers, insurers, takaful operators, non-bank financial institutions and modarabas) regulated by SECP under its anti-money-laundering and countering the financing of terrorism regulations (2020), read in conjunction with the Anti-Money-Laundering Act, are required to obtain beneficial ownership information from natural and legal persons before entering into a business relationship. Companies are now also required to hold a register of their ultimate beneficial owners, to record and update any changes in the register in a timely manner, and to provide such information to the registrar. There is an automated system for submitting information on the registration and ownership of companies and SECP has established a supervision and enforcement mechanism in this regard.

SECP has established centralized supervision and adjudication divisions that ensure the implementation of effective enforcement supervisory sanctions. The enforcement and sanctions provisions of the Companies Act and the Limited Liability Partnership Act, together with the enabling regulations, ensure effective enforcement of the ultimate beneficial owner framework by introducing penalties for non-compliance for both entities and for individual directors.

Entities regulated by the State Bank of Pakistan are subject to restrictions applicable to any person linked to criminal activities or affiliated with a terrorist organization.

SECP actively engages with law enforcement agencies and refers matters for investigation or inquiry to law enforcement agencies, including NAB. There is also cooperation between private sector entities and law enforcement agencies.

Paragraph 3 of article 12

3. In order to prevent corruption, each State Party shall take such measures as may be necessary, in accordance with its domestic laws and regulations regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences established in accordance with this Convention:

- (a) The establishment of off-the-books accounts;
- (b) The making of off-the-books or inadequately identified transactions;
- (c) The recording of non-existent expenditure;
- (d) The entry of liabilities with incorrect identification of their objects;
- (e) The use of false documents;
- (f) The intentional destruction of bookkeeping documents earlier than foreseen by the law.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

1. FBR

- (a) The establishment of off-the- books accounts;
- (b) The making of off-the-books or inadequately identified transactions;
- (c) The recording of non-existent expenditure;
- (d) The entry of liabilities with incorrect identification of their objects;
- (e) The use of false documents; and
- (f) The intentional destruction of bookkeeping documents earlier than foreseen by the law.

Chapter VII of the Income Tax Rules, 2002 prescribe the minimum level of books of accounts, documents and records to be maintained by taxpayers.

If a person makes a false or misleading statement to an Inland Revenue Authority either in writing or orally or electronically including a statement in an application, certificate, declaration, notification, return, objection or other document including books of accounts made, prepared, given; or

furnishes or files a false or mis-leading information or document or statement either in writing or orally or electronically; omits from a statement made or information furnished to an Income Tax Authority; any matter or thing without which the statement or the information is false or misleading in a material particular; such person shall pay a penalty of twenty five thousand rupees or 100% of the amount of tax shortfall whichever is higher. The said person can also be prosecuted. Similar kinds of penalties exist in the Sales Tax Act, 1990 and Federal Excise Act, 2006.

Penalty for false statement, falsification, forgery, fraud and deception etc. in relations to affairs of the company or body corporate has been prescribed in section 496 of the Companies Act, 2017 which shall be punishable with imprisonment which shall not be less than one year but which may extend to seven years and shall also be liable to fine which shall not be less than the amount involved in the fraud but may extend to three times the amount involved in the offence provided further that in case of offence involves public interest, the term of imprisonment under this section shall not be

less than three years along with fine.

2. SECP

- (a) *The establishment of off-the-books accounts;*
- (b) *The making of off-the-books or inadequately identified transactions;*
- (c) *The recording of non-existent expenditure;*
- (d) *The entry of liabilities with incorrect identification of their objects;*
- (e) *The use of false documents; and*
- (f) *The intentional destruction of book keeping documents earlier than foreseen by the law.*

Under the Companies Act 2017, law administered by the SECP, the companies are required to maintain their books of accounts and annual audit requirements are in place. In the third Schedule to the Act, the applicable accounting framework is defined for Listed Companies and Non-Listed Companies (according to the size of unlisted entity) which are IFRS, IFRS for NPOs and AFRS. All the IFRS are applicable in Pakistan except for few exemptions. Pakistan has adopted the International Auditing Standards issued by IFAC through IAASB. The accounts of the entities are audited by the professional firm of Chartered Accountants which gives reports to the shareholders on the compliance status of the Company with the applicable accounting framework and the provisions of the Companies Act, 2017 and the reports contains the key audit matters regarding that entity and how the matter was addressed by the auditor, responsibility of the management and of the auditors and compliance of company with other legal & regulatory requirements under the law.

Moreover, under the Act, the Commission also conducts the onsite inspections of the books and accounts of the company for any default, misrepresentations etc. and appropriate action is taken under the law which includes referring the matter to Court of Law or the Law Enforcement Agencies (i.e. NAB/FIA).

Section 220 of the Companies Act, 2017 specifies the requirements for maintenance of books of account by every company, as follows:

- (i) Every company shall prepare and keep at its registered office books of account and other relevant books and papers and financial statements for every financial year which give a true and fair view of the state of the affairs of the company, including that of its branch office or offices, if any
- (ii) Where a company has a branch office in Pakistan or outside Pakistan, it shall be deemed to have complied with the provisions of sub-section (1), if proper books of account relating to the transactions effected at the branch office are kept at that office and proper summarized returns are sent periodically by the branch office to the company at its registered office or the other place referred to
- (iii) The books of account of every company relating to a period of not less than ten financial years immediately preceding a financial year, or where the company had been in existence for a period less than ten years, in respect of all the preceding years together with the vouchers relevant to any entry in such books of account shall be kept in good order.
- (iv) If a company fails to comply with any of the requirements of this section, every director, including chief executive and chief financial officer, of the company who has by his act or omission been the cause of such default shall-

- (a) in respect of a listed company, be punishable with imprisonment for a term which may extend

to two year and with fine which shall not be less than five hundred thousand rupees nor more than five million rupees, and with a further fine which may extend to ten thousand rupees for every day after the first during which the default continues; and

(b) in respect of any other company, be punishable with imprisonment for a term, which may extend to one year and with fine which may extend to one hundred thousand rupees.

Section 249 of the Companies Act, 2017 specifies the duties of auditor who is required to conduct the audit of financial statements and prepare his report in compliance with the requirements of International Standards on Auditing as adopted by the Institute of Chartered Accountants of Pakistan. The auditor shall carry out such examination to enable him to form an opinion as to whether adequate accounting records have been kept by the company and returns adequate for their audit have been received from branches not visited by him; and whether the company's financial statements are in agreement with the accounting records and returns.

The auditor is required under the law to make out a report to the members of the company on the accounts and books of accounts of the company and on every financial statements and on every other document forming part of such statements and the report shall state:

(a). whether or not they have obtained all the information and explanations which to the best of their knowledge and belief were necessary for the purposes of the audit and if not, the details thereof and the effect of such information on the financial statements;

(b). whether or not in their opinion proper books of accounts as required by this Act have been kept by the company;

(c). whether or not in their opinion the statement of financial position and profit and loss account and other comprehensive income or the income and expenditure account and the cash flows have been drawn up in conformity with the requirements of accounting and reporting standards as notified under this Act and are in agreement with the books of accounts and returns;

(d). whether or not in their opinion and to the best of their information and according to the explanations given to them, the said accounts give the information required by this Act in the manner so required and give a true and fair view.

(i). in the case of the statement of financial position, of the state of affairs of the company as at the end of the financial year;

(ii). in the case of the profit and loss account and other comprehensive income or the income and expenditure account, of the profit or loss and other comprehensive income or surplus or deficit, as the case may be, for its financial year; and

(iii). in the case of statement of cash flows, of the generation and utilisation of the cash and cash equivalents of the company for its financial year;

(e). whether or not in their opinion

(i). investments made, expenditure incurred and guarantees extended, during the year, were for the purpose of company's business; and

(ii). Zakat deductible at source under the Zakat and Usher Ordinance, 1980 (XVIII of 1980), was deducted by the company and deposited in the Central Zakat Fund established under section 7 of that Act.

Where any of the matters referred to above is answered in the negative or with a qualification, the report shall state the reason for such qualification along with the factual position to the best of the auditor's information. The auditor shall express unmodified or modified opinion in his report in compliance with the requirements of International Standards on Auditing as adopted by the Institute

of Chartered Accountants of Pakistan.

The Commission may, by general or special order, direct that, in the case of all companies generally or such class or description of companies as may be specified in the order, the auditor's report shall also include a statement of such additional matters as may be so specified. Further, the Commission may by general or special order, direct, that the statement of compliance as contained in sub-section (4) of section 227 of this Act, shall be reviewed by the auditor who shall issue a review report to the members on the format specified by the Commission.

Section 252 and 253 of the Act specifies imposition of penalty by the Commission for non-compliance with provisions by companies and auditors respectively. Section 252 specifies that any contravention or default in complying with requirements of sections 246, 247, 248 and 250 shall be an offence liable to a penalty of level 3 on the standard scale. Section 253 specifies that if any auditor's report or review report is made, or any document of the company is signed or authenticated otherwise than in conformity with the requirements of section 131, sections 249 and 251 or is otherwise untrue or fails to bring out material facts about the affairs of the company or matters to which it purports to relate, the auditor concerned and the person, if any, other than the auditor who signs the report or signs or authenticates the document, and in the case of a firm all partners of the firm, shall be liable to a penalty of level 2 on the standard scale.

Maintenance of books and records

Section 220 of the Companies Act, 2017 (as stated above) requires that every company shall prepare and keep at its registered office books of account and other relevant books and papers and financial statements for every financial year which give a true and fair view of the state of the affairs of the company, including that of its branch office or offices, if any.

Moreover, sub-section 5 of section 220 of the Act provides that the books of account of every company relating to a period of not less than ten financial years immediately preceding a financial year, or where the company had been in existence for a period less than ten years, in respect of all the preceding years together with the vouchers relevant to any entry in such books of account shall be kept in good order.

Financial statement disclosures and accounting and auditing standards

Companies Act, 2017 prescribes different financial reporting frameworks for different kind of companies depending on their size and Companies, which are listed companies or public interest companies are required to prepare their Financial Statements on the basis of International Financial Reporting Standards. Section 225 of the Act requires that the financial statements shall give a true and fair view of the state of affairs of the company, comply with the financial reporting standards notified by the Commission and shall be prepared in accordance with the requirements contained in the Third Schedule for different class or classes of companies. Applicable Financial reporting frameworks prescribed under Third schedule to Companies Act, 2017 applicable on different kind of companies are as follow:

S	Classification Criteria of Company	Applicable Accounting Framework	Relevant Schedule of Companies Act
.			
N			
o			
.			
1	Public Interest Company & Large Sized Company (PILSC)		
.			

Sub-categories of PILSC:

a	Listed Company	International Financial Reporting Standards	Fourth Schedule
b	Non-listed Company which is: (i) a public sector company as defined in the Act; or (ii) a public utility or similar company carrying on the business of essential public service; or (iii) holding assets in a fiduciary capacity for a broad group of outsiders, such as a bank, insurance company, securities broker/dealer, pension fund, mutual fund or investment banking entity.	International Financial Reporting Standards	Fifth Schedule
c	Non-listed Company with: (i) paid-up capital of Rs. 200 million or more; or (ii) turnover of Rs. 1 billion or more; or (iii) employees more than 750; or (iv) such number of members holding ordinary shares as may be notified; or (v) assets exceeding such value as may be notified.		
d	Foreign Company with turnover of Rs. 1 billion or more.		
e	Non-listed Company licenced / formed under Section 42 / Section 45 of the Act having annual gross revenue (grants/income/subsidies/donations) including other income/revenue of Rs. 200 million and above.	International Financial Reporting Standards and Accounting Standards for NPOs	Fifth Schedule
2	Medium Sized Company (MSC)		
	Sub-categories of MSC:		
a	Non-listed Public Company with: (i) paid-up capital less than Rs.200 million; (ii) turnover less than Rs1 billion; (iii) Employees more than 250 but less than 750.	International Financial Reporting Standards for SMEs	Fifth Schedule
b	Private Company with: (i) paid-up capital of greater than Rs. 10 million but not exceeding Rs. 200 million; (ii) turnover greater than Rs. 100 million but not exceeding Rs. 1 billion; (iii) Employees more than 250 but less than 750.		
c	A Foreign Company which has turnover less than Rs. 1 billion.		
d	Non-listed Company licenced / formed under Section 42 or 45 of the Act which has annual gross revenue	Accounting Standards for NPOs	Fifth Schedule

(grants/income/subsidies/donations) including other income or revenue less than Rs.200 million.

3 Small Sized Company (SSC)

A private company having: (i) paid-up capital up to Rs. 10 million; (ii) turnover not exceeding Rs.100 million; (iii) Employees not more than 250.	Revised AFRS for SSEs	Fifth Schedule
--	-----------------------	----------------

It may be noted that all financial reporting frameworks prescribed under Third schedule of Companies Act, 2017 are fair presentation framework. Moreover, Companies Act, 2017 allows companies intending to prepare their Financial Statements in accordance with IFRS as sub-section (4) of section 225 of the Companies Act, 2017 provides that any company that intends to make unreserved compliance of IFRS issued by IASB shall be permitted to do so.

All International Standards on Auditing (ISAs) issue by IAASB are adopted in Pakistan by Institute of Chartered Accountants of Pakistan, details are given above.

In order to prevent false statement, falsification, forgery, fraud and deception stringent penalties are provided in section 496 of the Act, which is reproduce below;

496. Penalty for false statement, falsification, forgery, fraud, deception. (1) Notwithstanding anything contained in the Criminal Procedure Code, 1898, (V of 1898) or any other law, whoever in relations to affairs of the company or body corporate-

(a) makes a statement or submit any document in any form, which is false or incorrect in any material particular, or omits any material fact, knowing it to be material, in any return, report, certificate, statement of financial position, profit and loss account, income and expenditure account, offer of shares, books of account, application, information or explanation required by or for the purposes of any of the provisions of this Act or pursuant to an order or direction given under this Act with an intention to defraud, or cheat the Commission or to obtain incorporation or to avoid any penal action for an offence under this Act or administered legislation;

(b) makes any false entry or omits or alter any material particular from books, paper or accounts with an intent to defraud, destroy, alter or falsifies any books of account belonging to or in his possession shall commit an offence of falsification of account;

(c) submit, present or produce any forged or fabricated document, knowingly to be forged or fabricated, to the Commission for the purposes of cheating or cheating by personation or to obtain any wrongful gain or wrongful loss or to avoid any penal action for an offence under this Act or administered legislation; or

(d) employ any scheme, artifice or practice in the course of business of the company to defraud or deceive general public;

shall be punishable with imprisonment which shall not be less than one year but which may extend to seven years and shall also be liable to fine which shall not be less than the amount involved in the fraud but may extend to three times the amount involved in the offence:

Provided further that in case of offence involves public interest, the term of imprisonment under this section shall not be less than three years along with fine.

Explanation. -For the purpose of this section-

(i) —fraud in relation to affairs of the company or body corporate shall mean doing a thing with an intent to defraud other person;

(ii) —wrongful gain means the gain by unlawful means of property to which the person gaining is not legally entitled;

(iii) —wrongful loss means the loss by unlawful means of property to which the person losing is legally entitled.

(iv) —cheating, cheating by personation, falsification of accounts or forgery or forgery for the purposes of cheating shall have the same

Meanings as assign to it in Pakistan Penal Code, 1860 (XLV of 1860).

(2) All offences under this section shall be non-bail able and no compoundable.

Moreover, non-compliance with provision of section 220 - maintenance of books of account (including destruction of books of account, papers etc., before prescribed period of ten years) attract penal provisions of sub-section (6) of section 220 of the Act, which provides that:

“(6) If a company fails to comply with any of the requirements of this section, every director, including chief executive and chief financial officer, of the company who has by his act or omission been the cause of such default shall-

(a) in respect of a listed company, be punishable with imprisonment for a term which may extend to two year and with fine which shall not be less than five hundred thousand rupees nor more than five million rupees, and with a further fine which may extend to ten thousand rupees for every day after the first during which the default continues; and

(b) in respect of any other company, be punishable with imprisonment for a term which may extend to one year and with fine which may extend to one hundred thousand rupees.”

The link to the Companies Act 2017 is as below:

http://www.na.gov.pk/uploads/documents/1487136261_767.pdf

Examples of the implementation

Details regarding petition filed are as follows:

Sr.	Parties	Court Name	Relevant Sections
1	SECP v. M/s Pangio Sugar Mills Limited and others.	The Special Court (Offences in Banks) Sindh at Karachi	Sections 223(7)(8) read with sections 220(6) and 482 of the Companies Act 2017 for non-holding of two consecutive AGMs for the year 2015 and 2016 and also failed to submit Annual Audited Accounts for the same period.
2	SECP Vs Muhammad Ali Awan	The Special Courts (Offences in Banks), Islamabad	Section 230, 233 and 476 of the Companies ordinance, 1984
3	SECP Vs Malik Rehan Azam and other.	The Special Courts (Offences in Banks), Islamabad	Section 476 and 286 of the Companies Act. 2017
4	as SECP Vs Nadeem H. Shaikh and others	Islamabad High Court, Islamabad	Section 282, 230 & 234 of the Companies Ordinance, 1984
5	SECP Vs Khawar	Session Court	Criminal complaint u/s 230 (7) read with section

	Almas Etc		474(1) and section 476(4) of the Companies Ordinance, 1984.
--	-----------	--	---

(b) Observations on the implementation of the article

Accounting and financial reporting standards are regulated in the Companies Act and the Accounting and Financial Reporting Standards for Small-sized Entities. SECP has delegated responsibility for developing, adopting and issuing accounting standards to the Institute of Chartered Accountants of Pakistan. The accounts of private sector entities are audited by chartered accountants, who issue reports to the shareholders on the compliance status of companies, in line with the applicable accounting framework and the relevant provisions of the Companies Act.

Paragraph 4 of article 12

4. Each State Party shall disallow the tax deductibility of expenses that constitute bribes, the latter being one of the constituent elements of the offences established in accordance with articles 15 and 16 of this Convention and, where appropriate, other expenses incurred in furtherance of corrupt conduct.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

1. FBR

Under the Income Tax Ordinance, 2001 in computing the income of a person chargeable to tax for a tax year, a deduction is allowed for any expenditure incurred by the person in the year wholly and exclusively for the purposes of business. This provision disallows any expense incurred in furtherance of any corrupt conduct.

(b) Observations on the implementation of the article

Pakistan specifically disallows the tax deductibility of expenses that constitute bribes, in accordance with section 21 (g) of the Income Tax Ordinance (2001).

Article 13: Participation of society

Paragraph 1 of article 13

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

- (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;*
- (b) Ensuring that the public has effective access to information*
- (c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;*
- (d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:*
 - (i) For respect of the rights or reputations of others;*
 - (ii) For the protection of national security or ordre public or of public health or morals.*

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

NAB

NAB collaborates with Civil Society and NGO/ INGO for prevention of corruption. NAB also collaborates with International Organizations for prevention of corruption. NAB has close liaison with Transparency International (“TI”) Pakistan and gives due priority to the complaints referred by the TI. NAB has also close cooperation with Pakistan Institute of Legislative Development And Transparency (“PILDAT”) and is continuously collaborating with civil society for awareness and prevention of corruption. Following activities were carried out during last year:

Dissemination of NAB Message through SMS. Pakistan Telecom Authority (“PTA”) was approached by this Division to engage all telecom operators in Pakistan to spread NAB awareness slogan “Our Faith, Corruption Free Pakistan” during the international Anti-Corruption week.

Publication of Newspaper Supplement. In order to aware the public at large about corruption, A&P Division on International Anti-Corruption day, 9th December, published messages of the Hon`ble President of Islamic Republic of Pakistan, Chairman NAB and Secretary General of UN in newspapers through Media Cell.

Newsletter. In order to share the bi-annual progress of the Bureau’s activity with government institutions and general public, this Division is entrusted with this responsibility to prepare and publish the Newsletter and its distribution. A&P Division prepared two newsletters and distributed to all concerned.

Awareness Activities on collaboration with HEC. In order to eradicate corruption from society and sensitize the youth of our nation about the perils of corruption, HEC and NAB had signed a MOU. The MOU envisages that HEC would support NAB in the fight against Corruption by having awareness and prevention related activities such as walks, seminars, lectures etc conducted in educational institutions under the jurisdiction of HEC. Under this arrangement, A&P Division coordinated with HEC for planning a comprehensive activity plan for 2019 encompassing the above-mentioned awareness activities.

Chairman NAB’s Addresses at FPCCI. On 3rd October, 2019, Chairman NAB, Justice Javed Iqbal addressed the Business Community at Federation of Chamber and Commerce and Industry (FPCCI), Lahore where business community appreciated efforts of NAB in eradication of corruption. While talking to the members, Chairman NAB said that fight against corruption need

collective efforts. He sought cooperation of business community and urged them to step forward to get rid of this menace.

Seminars. Various seminars have been conducted through the country for awareness of general public. Some are listed below:

- o NAB Lahore in collaboration with University of Engineering & Technology (UET) organized a seminar titled “Corruption and its ill effects on society” on 22nd March 2019.
- o In collaboration with University of South Asia (USA), NAB Lahore organized a seminar titled “Corruption and its ill effects on society” on 28th March 2019.
- o On 30th May 2019, Lahore Chamber of Commerce & Industry organized a meeting and an awareness Seminar titled “Anti Money Laundering Seminar” in collaboration with NAB, FIA and SBP. The seminar was focused to highlight the role of NAB in combating corruption and money laundering.
- o On 6th March 2019, an awareness and prevention session was organized by Sui Southern Gas Company Limited, Karachi in collaboration with NAB (K) on the topic of “Transparency & Decision Making”.
- o A seminar and panel discussion on the topic of “Significance of Transparency and Honesty in the Society” was organized by Foundation for Advancement of Science and Technology (FAST)-National University Karachi in collaboration with NAB (K) on 25th April, 2019. NAB officers and representatives of other law enforcement agencies attended the seminar.
- o NAB (K) organized a seminar in collaboration with Pakistan State Oil Karachi on 30th April, 2019. The theme of the event was “True Importance of Awareness and Prevention regime in the Eradication of Corruption”.
- o A seminar titled as “The role of youth in the eradication of corruption from society” was organized by Adamjee Govt. Science College, Karachi in collaboration with NAB Karachi on 24th July, 2019.
- o An awareness seminar was organized by Indus University, Karachi on the objectives of “Role of Youth in Eradication of Corruption from Society” in collaboration with NAB (K) on 9th October, 2019.
- o NAB (KP) organized a Seminar on “Role of People in Prevention of Corruption in Society” at Jirga Hall of Governor House KP where Mr. Shah Farman, Governor KP graced the occasion as Chief Guest. The event was attended by a large number of dignitaries / officers of provincial secretariat, vice chancellors of various universities in KP and officers from educational institutions.
- o A seminar was held by NAB KP at FIA Office, Peshawar on 13th March 2019. ADPGA NAB (KP) delivered the lecture on the topic “Role of Public Disclosure Act, 2017 in Prevention of Corruption”. The seminar was attended by officers of FIA.
- o A seminar was held on 16th May 2019 at Peshawar on “Role of Students in Establishment of Corruption Free-Society”.
- o Seminar on role of media in eradication of corruption was organized by NAB (Balochistan) in Quetta on 30th April 2019.
- o Seminar on role of minorities in eradication of corruption was also organized by NAB (Balochistan) in Quetta.

To equip the youth with the principles of ethics and aware them about ill effects of corruption on society, NAB in collaboration with educational institutions has established, 1011 Character Building Societies (“CBS”) at different Schools, Colleges & Universities, during the year 2019. The information regarding awareness and prevention activities is also available on the following link;

<http://nab.gov.pk/Downloads/NAB%20Annual%20Report%202018.pdf>

Anti-Corruption Establishment (“ACE”) in Provinces

A high-level committee (Chief Secretary, Additional Chief Secretary, Secretary Law, Secretary Prosecution, Secretary C& W, secretary Irrigation) makes decision for requisitioning of services of officers of having good repute and excellent carrier, however, there is no role of civil society or non-governmental organization and community based organization in the investigation but they can make/lodged complaint against corruption committed by any public servant.

Public Procurement Regulatory Authority (“PPRA”)

PPRA has taken initiative to introduce the concept of procurement culture, and to impart awareness to the society by arranging seminars and workshops in Private sector vendors, NGOs and Educational Institutions especially in the Engineering Universities to give them awareness regarding mitigation strategies for eliminating corruption in engineering works and services.

The Authority has issued Policy on Capacity Building on April 15, 2019. In order to achieve long-term objectives, it has been planned to introduce Procurement Management as professional degree in general, and the subject of Contract Management shall be introduced in the undergraduate courses of all the Engineering Disciplines. After, the development of National Institute of Procurement (NIP), initially the Post Graduate Diploma (PDG) and finally the MS Degree in Procurement Management shall be initiated in collaboration with some high-profile Universities of Engineering & Technology or of Management.

Examples of the implementation

During the year 2019, total 1011x Character Building Societies were established at different Schools, Colleges & Universities.

(b) Observations on the implementation of the article

The right to information is enshrined in the Constitution. Access to information is regulated through the Right to Information Act at the federal level and other legislation at the provincial level.

The country has established the Pakistan Information Commission. Requests for information can be filed directly through the public information officers or designated officials of each public body. The right to information may be restricted on the basis of national security, defence or diplomatic grounds; appeals may be filed to the Commission.

Civil society is involved in the policymaking and legislative processes to a certain degree, mainly through the prevention committees.

Each government agency makes available on its website all the information that it is mandated to provide, and many government services can be accessed online.

Paragraph 2 of article 13

2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

1. NAB

The National Accountability Ordinance, 1999 is the most comprehensive piece of legislation to date in Pakistan for controlling corruption. National Accountability Ordinance, 1999's preamble sets the tone for what NAB has proclaimed to achieve by aiming for "effective measures for the detection, investigation, speedy disposal of cases of corruption, corrupt practices, misuse or abuse of power. The prevention and awareness campaign has found allies in the educational sector and the media such as poster competitions for students and television shows. Initiatives by NAB on the preventive side include revamping of the assets' declaration system for public servants and recommendations to enhance the emolument structure of public servants.

- a. NAB website. (<http://nab.gov.pk/>)
- b. NAB Annual Report present on NAB's website
(<http://nab.gov.pk/Downloads/NAB%20Annual%20Report%202019.pdf>)
- c. Universal Access Number.
- d. Billboards and Display of Banners outside NAB Offices
- e. Public Hearing Day by Chairman NAB and Regional Director Generals on monthly basis.
- f. Suo Moto notice by Chairman NAB.
- g. Complaints being received through any mode of communication (Fax, Email, Mail, Courier, Personal Visits etc.)

2. Anticorruption Establishment ("ACE") (All Provinces)

ACE (Punjab)

Anti-Corruption Establishment Punjab is publicly accessible department and any affected person from public may approach to his grievances (if any) through lodging a complaint directly at ACE Office or at.

ACE website i-e www.ace.punjab.gov.pk

Community meetings at regional and district level.

Open Katchery (Open Court).

AEC may also initiate action on its source report.

(b) Observations on the implementation of the article

Suspected corruption offences may be reported to NAB, the Federal Investigation Agency and, at the provincial level, to the anti-corruption establishments.

Article 14. Measures to prevent money-laundering

Subparagraph 1 (a) of article 14

1. Each State Party shall:

(a) Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions;

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

NAB

NAB has established an Anti-Money Laundering (“AML”)/ Combating the Financing of Terrorism (“CFT”) Cell at NAB HQ.

NAB has actively participated and contributed in Pakistan Mutual Evaluation process from 2019, conducted by APG, with coordination of stakeholders in Pakistan. NAB has contributed in National Risk Assessment (“NRA”) process 2017 and its up-dation in 2019. NAB has also contributed for compliance of FAFT recommendations on AML/CFT. NAB has signed MoU for Inter-agency cooperation at the National Counter Terrorism Authority (“NACTA”). NAB disseminated NRA report to investigators and prosecutors across the Pakistan and conducted awareness and training sessions on AML regime in Pakistan.

FIA

Pakistan being a signatory country and responsible member of International community has formulated several laws, ordinances to eradicate corruption from the society. The FIA Act, 1974 and its schedule offences particularly deal with corruption. Apart from this National Accountability Ordinance, 1999 certain sections of Pakistan penal code, AML Act, 2010 etc. also deals with menace of corruption. Pakistan being a signatory country and responsible member of international community has formulated several laws, ordinances to eradicate corruption from the society.

Being signatory to UNCAC, the Government of Islamic Republic of Pakistan has established financial monitoring unit (“FMU”) to serve as national center for the collection, analysis and dissemination of information to law enforcement agencies such as FIA, NAB, FBR, Anti-Narcotics Force regarding potential money laundering and initiation of enquiries / investigation against offenders.

Pakistan being a member State has taken several steps to eradicate corruption from the society.

On reports of (STRs and CTRs) of FMU, the law enforcement agencies have taken cognizance and submitted reports in concerned courts where charges have been framed against offenders.

The Federal Government has showed his seriousness to minimize the menace of corruption at top level. Several cases / enquiries have been registered in NAB and FIA against ex-Prime Minister, Ex-President, senior leaderships of different political parties as well as high ranked bureaucracy and public office holders. These measures showed seriousness of Pakistani Government towards implementation of steps mentioned in chapter II of said Convention.

FMU

In order to strengthen the AML/CFT regime in Pakistan and to fulfil the FATF's obligations, Financial Intelligence Unit of Pakistan (named Financial Monitoring Unit) was established in 2007 under Section 6 of the Anti-Money Laundering Ordinance-2007 in October 2007 (Now the Anti-Money Laundering Act, 2010) (which can be accessed at link:

<http://www.fmu.gov.pk/docs/laws/Anti-Money%25%2020Laundering%20Act%25%20202010-As%20amended%20upto%20May%202016.pdf>

Powers of FMU:

Under section 6 of Anti-Money Laundering Act 2010, Financial Monitoring Unit (FMU) is authorized:

- To receive Suspicious Transaction Reports (STRs) & Currency Transaction Reports (CTRs), analyze them and disseminate necessary information or materials, on a confidential basis to the concerned investigation or prosecuting agencies for inquiry or other action under AML Act or any other applicable laws.
- To maintain database of STRs, CTRs and other materials that may be relevant to the work of FMU.
- To co-operate with Financial Intelligence Units (FIUs) of other countries.
- To represent Pakistan at all international and regional forums that relate to the work of FMU.
- To frame regulations in consultation with SBP and SECP for ensuring receipt of Suspicious Transaction Reports and CTRs from the financial institutions and non-financial businesses and professions
- To recommend to the regulatory authorities of reporting entities to issue regulations as considered necessary in the context of combating money laundering and financing of terrorism, including customer due diligence and ancillary record-keeping. {The reporting entities mainly include financial institutions and non-financial businesses and professions whereas the main regulatory authorities of reporting entities include State Bank of Pakistan (SBP) and Securities and Exchange Commission of Pakistan (SECP)}
- To enter into arrangements with domestic agencies and authorities or engage a financial institution or an intermediary or such other non-financial businesses and professions or any of its officers as may be necessary for facilitating implementation of the provisions of AMLA 2010.

AML Regulation in 2015:

In furtherance of its role, FMU has issued AML Regulation in 2015 (which can be accessed at link: <http://www.fmu.gov.pk/docs/AMLRegulations2015.pdf>) to provide the guidelines to Financial Institutions/ non-financial businesses and professions (NFBP) on the manner in which suspicious

transactions shall be reported and additional information supplied to the FMU. In AML Regulation 2015, Red Flag Indicators for reporting of STRs have also been provided for the guidance of reporting entities of different sectors.

Frequently Asked Questions (FAQs) for reporting of CTRs

Frequently Asked Questions (FAQs) for reporting of CTRs have been provided on FMU's website. Contact numbers and departmental e-mail address are also provided on the website to facilitate the reporting entities.

STRs Receipt, Analysis and Dissemination of Intelligence:

Reporting Entities are required under section 7 (1) of AML Act 2010 to report suspicious transactions to FMU wherever they find any suspicion of money laundering, terrorist financing and/or any other predicate offence mentioned in AML Act 2010 with respect to transaction(s) or activity (ies) of individuals or entities. There is no threshold for reporting of STRs. On the other hand, Currency Transaction Reports (CTRs) are threshold-based cash reports and such reports may not be suspicious *per se*. CTRs are generally utilized during analysis of STRs. The threshold for CTR reporting as notified by the Government is Rupees Two Million (around 10,750 USD) or above. The flow of Suspicious Transaction Reports at FMU is provided below:

Flow of Suspicious Transaction Reports

Dissemination
STR Reporting

Feedback

Total STRs received at FMU:

A total of 49,113 STRs have been reported to FMU by different reporting entities till January, 2020. Details are mentioned in examples of implementation. The year wise segregation is provided below:

GoAML:

FMU was previously using Electronically Database Capturing System (EDCS) for maintaining the database of received STRs/CTRs and for the analysis purposes. EDCS, even though quite elementary and designed primarily for storage of CTR & STR information, had been used extensively and effectively for this purpose. However, there was a need for a secure & automated system that could further augment the analytical capabilities with identification and pattern matching functionalities. The goAML Analytical Suite was identified in 2010-11 as the solution that fulfils all these requirements. The goAML application is a fully integrated software solution developed specifically for use by Financial Intelligence Units (FIU's) and is one of UNODC's strategic responses to financial crime, including money-laundering and terrorist financing. With

goAML, an analyst can perform in-depth analysis of STRs and CTRs much more effectively and efficiently with the help of logical conditioning. Furthermore, goAML system is deployed in over 42 countries which makes it a uniquely standardized toolset that could potentially be used for mutual sharing of information amongst the FIUs.

FMU decided to switch from EDCS to goAML. The deployment of the goAML system was done in phases and FMU implemented this automated reporting system goAML with effect from January 01, 2019.

Strategic Analysis:

In addition to conducting tactical analysis, FMU also conducts the strategic analysis in important areas especially the ones identified as high risk in the reports published by FATF. The purpose of strategic analysis is to identify the risks and vulnerabilities related to a certain area and then provide recommendations to relevant stakeholders for strengthening the AML/CFT regime in Pakistan. Various Strategic Analysis developed by FMU are available on FMU website for sharing with public and private sector for operational and strategic initiatives (which can be accessed at link: <http://www.fmu.gov.pk/strategic-analysis/>). The broad objectives of the strategic analysis are as follows:

- To identify Trends and Patterns of ML/TF
- To identify the products, channels and pattern of transactions used for ML/TF.
- To identify the gaps and vulnerabilities in the financial sector which can be exploited.
- Based on the strategic Analysis recommendations will be provided for:
 - o Reporting Entities
 - o Supervisors
 - o Law Enforcement Agencies
 - o Any other Stakeholders
- Develop Red Alerts (If required)
- Develop Guidelines (if required)

State Bank of Pakistan (“SBP”)

(a). Pakistan is in compliant to this provision as it has in place a very comprehensive Regulatory and Supervisory AML/CFT Regime.

State Bank of Pakistan (“SBP”) under section 17H of the SBP Act 1956 is generally empowered to issue directives, instructions, and regulations to its regulated entities, which are binding and enforceable. SBP is also empowered under other relevant laws i.e. section 41 of the Banking Companies Ordinance 1962 and section 22 of the Microfinance Institutions Ordinance 2001 to issue instructions/ directions to banks/ DFIs/ Microfinance banks. Further section 3 of the Payment Systems & Electronic Fund Transfers Act 2007, empowers SBP to issue rules, guidelines, circulars, byelaws, standards and directions to payment system operators and service providers. For Exchange Companies (“EC”) Foreign Exchange Regulations Act 1947 empowers SBP to supervise ECs and issue instructions.

While on SBP part, SBP has put in place effective regulatory and supervisory regime to strengthen the governance, risk management and compliance functions in banks/Development Financial Institutions (“DFIs”)/Microfinance Banks (“MFBs”) and Money Services Businesses (“MSBs”) to prevent the use of banking channels for the purposes of Money Laundering (“ML”) and Terrorist Financing (“TF”). In this regard, SBP has put in place a comprehensive Anti-Money Laundering and Combating the Financing of Terrorism (“AML/CFT”) regulatory framework, which is fully aligned with International/ FATF’s standards and covers all essential aspects of preventive and control measures required therein including:

· **Regulation-1: Customer Due Diligence (“CDD”)**

When CDD measures are to be applied

1. Banks/DFIs shall apply CDD measures;
 - (a) when establishing business relationship;
 - (b) while dealing with occasional customers/ walk-in customers in line with Para 16 below;
 - (c) in other situations / scenarios when there is suspicion of money laundering/ financing of terrorism, regardless of threshold; and
 - (d) when bank/ DFI has doubts about the veracity or adequacy of previously obtained customer identification data.

CDD Measures for Establishing Business Relationship

Identification of Customers

2. Every customer shall be identified for establishing business relationship. For this purpose, ‘Annexure-I’ provides range of documents which shall be obtained for different types of customers.
3. For identity and due diligence purposes, at the minimum following information shall also be obtained, verified and recorded on KYC/CDD form or account opening form and relevant Information Technology (IT) systems;
 - (a) Full name as per identity document;
 - (b) Identity document number or where the customer is not a natural person, the registration/ incorporation number or business registration number (as applicable);
 - (c) Existing residential address, registered or business address (as necessary), contact telephone number(s) and e-mail (as applicable);
 - (d) Date of birth, incorporation or registration (as applicable);
 - (e) Nationality or place of birth, incorporation or registration (as applicable);
 - (f) Nature of business, geographies involved and expected type of counter-parties (as applicable);
 - (g) Purpose of account;
 - (h) Type of account;

- (i) Source of earnings;
- (j) Expected monthly credit turnover (amount and No. of transactions); and
- (k) Normal or expected modes of transactions.

Verification of Identity

4. The Bank/ DFI shall verify identities of the customers (natural persons) and in case of legal persons, identities of their natural persons from relevant authorities or where necessary using other reliable, independent sources and retain on record copies of all reference documents used for identification and verification. The verification shall be the responsibility of concerned bank/ DFI for which the customer should neither be obligated nor the cost of such verification be passed on to the customers.

5. Banks/DFIs shall conduct biometric verification for all Pakistani citizens/ Afghan refugees holding PoR Cards, before establishing new relationships, except in cases of genuine reasons or technical issues as prescribed by SBP in the Frequently Asked Questions (FAQs) on use of Biometric Technology.

Identification and Verification of Natural Persons Acting on Behalf of Customer

6. In relation to Para 4 and 5 above, where one or more natural persons are acting on behalf of a customer/ occasional customer/ walk-in customer or where customer is legal person or legal arrangement, bank/ DFI shall identify the natural persons who act on behalf of the customer, verify the identity of such persons and record the same in the relevant IT system. Moreover, the bank/ DFI shall seek information on powers (legal basis or authority) that regulate and bind the legal person or arrangement, as well as the names of the relevant persons having a senior management position in the legal person or arrangement.

7. Authority of such person to act on behalf of the customer shall be verified through documentary evidence including specimen signature of the persons so authorized.

Identification and Verification of Identity of Beneficial Owners

8. Reasonable measures shall be taken to obtain information to identify and verify the identities of the beneficial owner(s) in relation to a customer, using the relevant information or data obtained from a reliable source.

9. Where the customer is not a natural person, the bank/DFI shall (i) take reasonable measures to understand the nature of the customer's business and its ownership and control structure for obtaining information required under Para 13 below and (ii) determine the natural persons who ultimately own or control the customer.

10. In case there is doubt under Paragraph 9 as to whether the persons with the controlling ownership interest is/are the beneficial owners or where no natural person exerts control through ownership interests, the identity of the natural persons (if any) exercising control of the legal person

or arrangement should be identified and verified through other means. Where no natural person is identified, the identity of the relevant natural person who holds the position of senior managing official should be verified along with other due diligence measures.

11. For customers that are legal arrangements, Banks/DFIs are required to identify and take reasonable measures to verify the identity of beneficial owners through the following information:

(a) for trusts, the identity of the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust (including through a chain of control/ownership as ascertained during CDD/EDD);

(b) for other types of legal arrangements, the identity of persons in equivalent or similar positions.

12. Banks/ DFIs shall obtain from legal entities, the ultimate beneficial ownership information i.e. natural persons or individuals who ultimately own or control the company, that are required to maintain such information, as prescribed by SECP.

Information on the Purpose and Intended Nature of Business Relations

13. Banks/ DFIs shall obtain from customers, information as to the purpose and intended nature of business relations.

Timing of Verification

14. Verification of the identity of the customers and beneficial owners shall be completed before business relations are established.

15. Banks/ DFIs may accept initial deposit at the time of submission of necessary documents by their prospective customers (individual natural persons only) subject to the following;

(a) Initial deposit receipt will be issued with 'Disclaimer' that account shall be opened after completing necessary due diligence including NADRA verification through biometric technology;

(b) A temporary account number shall be generated which will be validated after completion of due diligence process.

(c) The Initial deposit will be credited to customer's designated account only.

(d) No transaction in the account, issuance of cheque book/ATM Card or any other instrument is allowed until completion of verification of identity of the customer. However, in case, the biometric thumb impression of customer (verified from NADRA) is taken by the bank, the account may be activated instantly subject to satisfactory due diligence.

(e) The branches of banks/DFIs will maintain a list of all such customers/accounts where the business relationship needed to be closed on account of negative verification.

(f) Banks/DFIs shall guide the customers to visit relevant branch to get refund of initial deposit in case of negative NADRA verification.

CDD Measures for Occasional Customers/ Walk-in Customers

16. Banks/DFIs shall identify the occasional customers/ walk-in customers and capture their identity document number in the IT system.

17. Furthermore, Banks /DFIs shall obtain a copy of identity document of the occasional customer/ walk-in customers and verify the identity using reliable, independent source of information, i.e. biometric verification or NADRA Verisys in line with SBP's Frequently Asked Questions (FAQs) on use of Biometric Technology;

- a) While issuing remittance instruments e.g. POs, DDs and MTs etc. (regardless of threshold).
- b) Conducting cash transactions of rupees 0.5 million or above, including where the transaction is carried out in a single operation or in several transactions that appear to be linked.

Where CDD Measures are Not Completed

18. In case banks/ DFIs are not able to satisfactorily complete required CDD measures, account shall not be opened or any service provided and consideration shall be given if the circumstances are suspicious so as to warrant the filing of an STR.

19. If banks/DFIs are unable to satisfactorily comply with CDD measures of an existing customer, the relationship shall be terminated and reporting of suspicious transaction be considered as per law. Further, banks/DFIs shall serve a prior notice and record cogent reasons for terminating business relationships in their systems on a case-to-case basis.

20. In cases where banks/DFIs form suspicion of money laundering, terrorist financing or other criminal activity, and they reasonably believe that performing the CDD process will tip-off the customer, they may not to pursue the CDD process, and instead file an STR with FMU.

Ongoing Monitoring

21. All business relations with customers shall be monitored on an ongoing basis to ensure that the transactions are consistent with the bank/ DFI's knowledge of the customer, its business and risk profile and where appropriate, the sources of funds.

22. Banks/DFIs shall obtain information and examine, as far as possible the background and purpose of all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. The background and purpose of these transactions shall be inquired and findings shall be documented with a view to making this information available to the relevant competent authorities when required.

23. Banks/DFIs shall periodically review the adequacy of customer information obtained in respect of customers and beneficial owners and ensure that the information is kept up to date, particularly for higher risk categories of customers. The review period and procedures thereof should be defined by banks/DFIs in their AML/CFT policies, as per risk based approach.

24. In relation to Para 23 above, customers' profiles should be revised keeping in view the spirit of KYC/CDD and basis of revision shall be documented and customers may be consulted, if necessary.

Anonymous or Fictitious Account

25. Banks/DFIs shall not open or maintain anonymous accounts or accounts in the name of fictitious persons or numbered accounts.

26. In case of an account/ relationship of an entity with abbreviated name or title, the bank/ DFI shall satisfy itself that the subject name/ title is in accordance with the constituent documents of the customer entity. Any account/ relationship shall not be allowed in abbreviated name in cases where entity has its complete name (non-abbreviated) in their constituent document.

Review of Products and Services including new Technologies

27. Banks/DFIs shall identify and assess the ML/TF/PF risks that may arise in relation to the development of new products, services and business practices including delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products, especially those that may favor anonymity.

28. Furthermore, risk assessments shall be undertaken prior to the launch or use of such products, services and business practices and technologies. Appropriate measures should be taken to manage and mitigate the identified risks.

Joint Accounts

29. In the case of joint accounts, CDD measures on all of the joint account holders shall be performed as if each of them were individual customers of the bank/DFI.

Government Accounts

30. Government accounts shall not be opened in the personal names of the government official(s). Government account which is to be operated by an officer of the Federal/Provincial/Local Government in his/her official capacity, shall be opened only on production of a special resolution/authority from the concerned administrative department duly endorsed by the Ministry of Finance or Finance Department of the concerned Government.

31. However, in case of autonomous entities and Armed Forces including their allied offices, banks/DFIs may open bank accounts on the basis of special resolution/authority from the concerned administrative department or highest executive committee/management committee of that entity duly endorsed by their respective unit of finance. The banks/DFIs shall also take into account any rules, regulations or procedures prescribed in the governing laws of such entities relating to opening and maintaining of their bank accounts.

Existing Customers

32. Banks/DFIs shall perform such CDD measures as may be appropriate to its existing customers having regard to its own assessment of materiality and risk but without compromise on identity and verification requirements.

33. Banks/DFIs are prohibited, on an ongoing basis, from providing any banking services to proscribed/ designated entities and persons or to those who are known for their association with such entities and persons, whether under the proscribed/ designated name or with a different name. The banks/DFIs should monitor their relationships on a continuous basis and ensure that no such relationship exists. If any such relationship is found, immediate action shall be taken as per law, including reporting to the Financial Monitoring Unit (FMU).

34. For existing customers who opened accounts with old NICs, banks/DFIs shall ensure that attested copies of identity documents shall be present in bank's/DFI's record. Banks/DFIs shall block accounts without identity document (after serving one-month prior notice) for all debit transactions/withdrawals, irrespective of mode of payment, until the subject regulatory requirement is fulfilled. However, debit block from the accounts shall be removed upon submission of attested copy of identity document and verification of the same from NADRA or biometric verification.

Dormant accounts

35. For customers whose accounts are dormant or in-operative, bank/DFIs may allow credit entries without changing at their own, the dormancy status of such accounts. Debit transactions/withdrawals shall not be allowed until the account is activated on the request of the account holder. For activation, the bank/DFI shall conduct biometric verification of the account holder or obtain attested copy of customer's valid identity document, if already not available.

36. In relation to Para 34 and 35 above, it may be noted that transactions e.g. debits under the recovery of loans and mark-up etc. any permissible bank charges, government duties or levies and instruction issued under any law or from the court will not be subject to debit or withdrawal restriction.

Prohibition of personal accounts for business purposes

37. Banks/DFIs shall not allow personal accounts to be used for business purposes except proprietorships, small businesses and professions where constituent documents are not available and the banks/DFIs are satisfied with KYC profile of the account holder, purpose of relationship and expected turnover of the account keeping in view financial status & nature of business of that customer.

Politically Exposed Persons (PEPs)

38. In relation to PEPs and their close associates or family members, banks/DFIs shall:

(a) implement appropriate internal policies, procedures and controls to determine if a customer or

beneficial owner is a PEP;

(b) obtain approval from the bank's senior management to establish or continue business relations where the customer or a beneficial owner is a PEP or subsequently becomes a PEP;

(c) establish, by appropriate means, the sources of wealth or beneficial ownership of funds, as appropriate; including bank/DFI's own assessment to this effect; and

(d) conduct during the course of business relations, enhanced monitoring of business relations with the customer.

NGOs/NPOs/ Charities' accounts

39. Banks/DFIs should conduct enhanced due diligence (including obtaining senior management approval) while establishing relationship with Non-Governmental Organizations (NGOs)/Not-for-Profit Organizations (NPOs) and Charities to ensure that these accounts are used for legitimate purposes and the transactions are commensurate with the stated objectives and purposes.

40. The accounts should be opened in the name of relevant NGO/NPO as per title given in constituent documents of the entity. The individuals who are authorized to operate these accounts and all members of their governing body should also be subject to CDD separately. Banks/DFIs should ensure that these persons are not affiliated with any proscribed/ designated entity or person, whether under the same name or a different name.

41. In case of advertisements through newspapers or any other medium, especially when bank account number is mentioned for donations, Banks/DFIs will ensure that the title of the account is the same as that of the entity soliciting donations. In case of any difference, immediate caution should be marked on such accounts and the matter should be considered for filing STR.

42. Personal accounts shall not be allowed to be used for charity purposes/collection of donations.

43. All existing relationships of NGOs/NPOs/Charities should be reviewed and monitored to ensure that these organizations, their authorized signatories, members of their governing body and the beneficial owners are not linked with any proscribed/ designated entity or person, whether under the same name or a different name. In case of any positive match, banks/ DFIs should consider filing STR and/or take other actions as per law.

Asset Side / Trade Finance Customers

44. Banks/DFIs shall also undertake CDD measures of asset side/ trade finance customers as prescribed in these Regulations and ensure monitoring of such customers with regard to ML/TF/PF risks.

Customers from High-Risk Jurisdictions identified by FATF

45. Banks/ DFIs shall apply enhanced due diligence, proportionate to the risks, to business relationships and transactions with natural and legal persons (including financial institutions) from

foreign jurisdictions for which this is called for by the FATF.

46. Banks/ DFIs shall apply countermeasures proportionate to the risks: (a) when called upon to do so by FATF, or (b) independently of any call by the FATF to do so.

Prohibition on Reliance on Third Parties for CDD measures

47. Banks/DFIs shall not rely on third parties to perform any CDD measures as prescribed in these Regulations.

· **Regulation-2: Correspondent Banking**

1. In addition to measures required under Regulation 1 (as deemed necessary by the bank/DFI), banks/ DFIs shall take the following measures for providing correspondent banking services-

(a) assess the suitability of the respondent bank by taking the following steps:

(i) gather adequate information about the respondent bank to understand fully the nature of the respondent bank's business, including the following, where applicable;

- Know your customer policy (KYC)
- Information about the respondent bank's management and ownership
- Major business activities
- Their geographical presence/jurisdiction (country) of correspondence
- Money laundering prevention and detection measures
- The purpose of the account or service
- The identity of any third party that will use the correspondent banking services (i.e. in case of payable through accounts)
- Condition of the bank regulation and supervision in the respondent's country

(ii) determine from any available sources the reputation of the respondent bank and, as far as practicable, the quality of supervision over the respondent bank, including where possible whether it has been the subject of money laundering or financing of terrorism investigation or regulatory action; and

(iii) assess the respondent bank in the context of sanctions/embargoes and Advisories about risks.

(b) clearly understand and document the respective AML/CFT responsibilities of each bank; and

(c) obtain approval of senior management, before establishing new correspondent banking relationship.

2. Where the cross-border banking services involve a payable-through account, the correspondent bank shall be satisfied that -

(a) the respondent bank has performed appropriate CDD measures at least equivalent to those specified in Regulation 1 on the third party having direct access to the payable-through account; and

(b) the respondent bank is able to perform ongoing monitoring of its business relations with that third party and is willing and able to provide customer identification information to the correspondent bank/ DFI upon request.

3. Banks/ DFIs shall apply enhanced due diligence when establishing or continuing correspondent relationship with banks/ financial institutions which are located in jurisdictions that have been identified or called for by FATF for inadequate and poor AML/CFT standards in the fight against money laundering and financing of terrorism.

4. No bank/ DFI shall enter into or continue correspondent banking relations with a shell bank and shall take appropriate measures when establishing correspondent banking relations, to satisfy them that their correspondent banks do not permit their accounts to be used by shell banks.

5. In case where a Pakistani bank/DFI is availing correspondent banking services from a bank/financial institution abroad, the CDD measures specified under Para 1(a), 1(b) 1(c), 3 and 4 above should be applied, as considered necessary to mitigate ML/TF risks.

Regulation-3: Wire Transfers/Fund Transfers

1. The requirement under this Regulation shall apply to a bank/ DFI during the course of sending or receiving funds by wire transfer except transfer and settlement between the banks where both the banks are acting on their own behalf as originator and the beneficiary of the wire transfer;

Responsibility of the Ordering Institution

2. Bank/DFI as ordering institution (whether domestic or cross border wire transfer and regardless of threshold) shall;

(a) identify and verify the originator (if it has not already done under Regulation 1); and obtain details of beneficial owner(s) of funds; and

(b) record adequate details of the wire transfer so as to permit its reconstruction, including the date of the wire transfer, the type and amount of currency involved, the value date, the purpose and details of the wire transfer beneficiary and the beneficiary institution, and relationship between originator and beneficiary, as applicable etc.

3. Bank/DFI shall include the following information in the message or payment instruction which should accompany or remain with the wire transfer throughout the payment chain:

- (a) the name of the originator;
- (b) the originator's account number (or unique reference number which permits traceability of the transaction);
- (c) the originator's address and CNIC/ passport number;
- (d) the name of the beneficiary; and
- (e) the beneficiary's address and CNIC/ passport number.

4. Where several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries, the batch file shall contain the required and accurate originator information (originator's account number or unique transaction reference number) and full beneficiary information that is fully traceable within the beneficiary country.

Responsibility of the Beneficiary Institution

5. Beneficiary institution shall verify the identity of the beneficiary, if the identity has not been previously verified, and record this information.

6. Beneficiary institution shall adopt risk-based internal policies, procedures and controls for identifying and handling in-coming wire transfers that are not accompanied by complete originator or beneficiary information. The incomplete originator or beneficiary information may be considered as a factor in assessing whether to execute or terminate the transaction, and in assessing whether the transaction is suspicious and merits reporting to FMU.

7. Banks/ DFIs shall remain cautious when entering into relationship or transactions with institutions which do not comply with the standard requirements set out for wire transfers by limiting or even terminating business relationship.

Responsibility of Intermediary Institution

8. Bank/DFI as an intermediary financial institution shall:

- (a) in passing onward the message or payment instruction, maintain all the required originator and beneficiary information with the wire transfer;
- (b) keep a record of all the information received from the ordering financial institution or another intermediary financial institution, as per relevant record keeping requirements;
- (c) take reasonable measures, which are consistent with straight-through processing, to identify cross-border wire transfers that lack required originator information or beneficiary information; and
- (d) have risk-based policies and procedures for determining: (i) when to execute, reject, or suspend a wire transfer lacking required originator or beneficiary information; and (ii) the appropriate follow-up action.

Regulation-4: Reporting of Transactions (STRs/CTRs)

1. Banks/ DFIs shall comply with the provisions of AML Act, rules and regulations issued there under for reporting suspicious transactions/currency transactions in the context of money laundering, financing of terrorism and financing of proliferation.
2. Banks/ DFIs shall implement appropriate internal policies, procedures and controls for meeting their obligations under AML Act.
3. Banks/ DFIs shall pay special attention to all complex, unusually large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. The background and purpose of such transactions shall, as far as possible, be examined, the findings established in writing, and be available to assist the relevant authorities in inspection and investigation.
4. Examples and characteristics of some suspicious transactions (Red Alerts) that may be a cause for increased scrutiny for AML/CFT purposes are listed at 'Annexure-II'.
5. Banks/DFIs are advised to make use of technology and upgrade their systems and procedures in accordance with the changing profile of various risks. Accordingly, all banks/DFIs are advised to implement automated Transaction Monitoring Systems (TMS) capable of producing meaningful alerts based on pre-defined parameters/thresholds and customer profile, for analysis and possible reporting of suspicious transactions. Further, banks/DFIs shall establish criteria in their AML/CFT Policies and/or Procedures for management of such alerts.
6. The adequacy of staff posted for effective monitoring and reporting of suspicious transactions is a critical factor of Customer Due Diligence. Banks/DFIs shall place adequate number of analysts for monitoring and reporting purpose. Moreover, steps should be taken by banks/DFIs to develop knowledge and skills of their staff and utilize technology solutions required for effective Targeted Financial Sanctions (TFS) monitoring and reporting of suspicious transactions.
7. The transactions, which are out of character or are inconsistent with the history, pattern, or normal operation of the account including through heavy deposits, withdrawals and transfers, shall be viewed with suspicion, be properly investigated and referred to Compliance Officer for possible reporting to FMU under AML Act.
8. Banks/ DFIs should note that STRs, including attempted transactions, should be reported regardless of the amount of the transactions; and, the CTRs should be reported for the transactions of rupees two million (around 10,750 USD) and above as per requirements of AML Act.
9. The basis of deciding whether an STR is being filed or not shall be documented and kept on record together with all internal findings and analysis done in relation to a suspicion irrespective of the fact that transaction is subsequently reported or not.

10. Banks/ DFIs, without disclosing the contents of STRs, shall intimate to State Bank of Pakistan on bi-annual basis the number of STRs reported to FMU. The status report (indicating No. of STRs only) shall reach to Director, BPRD within seven days of close of each half year.

11. The employees of the banks/ DFIs are strictly prohibited to disclose the fact to the customer or any other quarter that a suspicious transaction or related information is being or has been reported to any authority, except if required by law. This shall be made part of Code of Ethics to be signed by employees and Directors of the bank/DFI.

12. The reporting of suspicious transactions/currency transactions in the context of money laundering, financing of terrorism or financing of proliferation shall not be assigned to outsourced employees.

Regulation-5: Record Keeping

1. Banks/ DFIs shall maintain all necessary records on transactions, both domestic and international, including the results of any analysis undertaken (e.g. inquiries to establish the background and purpose of complex, unusual large transactions) for a minimum period of ten years from completion of the transaction.

2. The records shall be sufficient to permit reconstruction of individual transactions including the nature and date of the transaction, the type and amount of currency involved and the type and identifying number of any account involved in the transactions so as to provide, when necessary, evidence for prosecution of criminal activity. The transactions records may be maintained in paper or electronic form or on microfilm, provided it is admissible as evidence in a court of law.

3. The records of identification data obtained through CDD process like copies of identification documents, account opening forms, KYC forms, verification documents and other documents along with records of account files and business correspondence, shall be maintained for a minimum period of ten years after the business relationship is ended. The identification records may be maintained in document as originals or copies subject to bank's attestation.

4. Banks/ DFIs shall, however, retain those records for longer period where transactions, customers or accounts involve litigation or it is required by court or other competent authority.

5. Banks/ DFIs shall satisfy, on timely basis, any enquiry or order from the relevant competent authorities including law enforcement agencies and FMU for supply of information and records as per law.

Regulation-6: Internal Controls, Policies, Compliance, Audit & Training

Bank/DFIs own AML/CFT policies, procedures & controls

1. Each Bank/ DFI shall formulate its own AML/CFT policy duly approved by their Board of Directors and cascade the same down the line to each and every business location and concerned employees for strict compliance. The detailed procedures and controls shall be developed by banks/ DFIs in the light of policy approved by the Board.
2. The policies, procedures and controls shall include, amongst other things, CDD measures, record retention, correspondent banking, handling wire transfers, risk assessment procedures, the detection of unusual and/or suspicious transactions and the obligation to report suspicious transaction etc.
3. Banks/ DFIs should update their internal risk assessment periodically or in case of any major event or in light of the National Risk Assessments (NRA) duly shared by SBP besides other instructions issued from time to time.
4. In formulating policies, procedures and controls, banks/ DFIs shall take into consideration money laundering and financing of terrorism threats that may arise from the use of new or developing technologies, especially those having features of anonymity or inconsistency with the spirit of CDD measures.

Foreign Branches and Subsidiaries

5. Banks/ DFIs shall pay particular attention to their branches and subsidiaries located in countries which do not or insufficiently comply with FATF Recommendations (as determined by FATF or identified by State Bank of Pakistan) and ensure that their AML/ CFT policy is observed by branches and subsidiaries in those countries.
6. Banks/ DFIs shall apply their AML/ CFT policies to all of their branches and subsidiaries outside Pakistan to the extent that laws and regulations of the host country permit. Where the AML/CFT requirements in the host country or jurisdiction differ from those in Pakistan, bank/ DFI shall require their overseas branches or subsidiaries to apply the higher of the two standards, to the extent that the law of the host country or jurisdiction so permits.
7. Where the law of the host country conflicts with the AML/ CFT requirements of Pakistan so that the overseas branch or subsidiary is unable to fully observe the higher standards, the bank/ DFI through its head office shall report this to the State Bank of Pakistan and comply with such further directions as may be issued.

Compliance

8. Banks/ DFIs shall develop appropriate AML/ CFT compliance program, including at least, the appointment of a management level officer as the compliance officer in line with Regulation G-1 (Para D) of Prudential Regulations on Corporate/ Commercial Banking as amended from time to time.

9. Banks/ DFIs shall ensure that the compliance officer, as well as any other persons appointed to assist him, has timely access to all customer records and other relevant information which they may require to discharge their functions.

10. Banks/ DFIs shall incorporate procedures to record and maintain data of account opening cases rejected by compliance or central account opening units, the cases where customers' risk ratings recommended by business units were challenged or revised, and the cases where accounts were closed based on ML/TF risks.

11. Banks/ DFIs shall:

(a) in addition to oversight and monitoring of ML/TF/PF risks posed to the entity, the Board shall also be responsible for ensuring that entity has implemented effective AML/CFT controls (preventive measures) including Targeted Financial Sanctions (TFS) related to TF & PF, STR/CTR. The board shall delegate oversight and monitoring function to any of the board sub-committees preferably Board Risk Management Committee (BRMC) or Board Audit Committee (BAC) and Compliance Risk Management Committee (CRMC) which has been constituted in compliance of SBP guidance on Compliance Risk Management;

(b) include compliance and AML/ CFT related responsibilities in Key Performance Indicators (KPIs) of responsible staff down the line, in order to strengthen the compliance/ AML/CFT function. Moreover, ML/ TF risks should be included in KPIs of officer(s) responsible for Enterprise Risk Management and Operational Risk Management functions;

(c) not assign unrealistic business targets and conflicting roles to their employees. Appropriate strategies may be devised to ensure provision of safe and smooth banking services; and

(d) regularly assess working strength of the compliance function and all its sub-divisions and deficiency if any, observed should be addressed on priority basis.

Audit

12. Banks/ DFIs shall maintain an independent audit function in line with Code of Corporate Governance that is adequately resourced and able to regularly assess the effectiveness of the bank's internal policies, procedures and controls, and its compliance with regulatory requirements.

Employee Due Diligence

13. The Banks/ DFIs shall develop and implement a comprehensive employee due diligence policy and procedure to be implemented/ carried out at the time of hiring all employees permanent, contractual, or through outsourcing to ensure high standards. This shall include but not limited to verification of antecedents and screening procedures to verify that person being inducted/ hired has a clean history.

Training

14. Banks/ DFIs shall chalk out and implement suitable training program for relevant employees on annual basis, in order to effectively implement the regulatory requirements and banks'/DFIs'

own policies and procedures relating to AML/ CFT. The employees training shall enable them to understand new developments, money laundering and financing of terrorism techniques, methods and trends. The training should also include their responsibilities relating to AML/ CFT especially requirements relating to TFS, CDD and analysis of abnormal/out of pattern transactions and alerts generated thereof for possible reporting of suspicious transactions. Banks/DFIs shall also implement programs covering ML/TF risks and the AML/CFT/TFS obligations including the results of Risk Assessments conducted by FMU or any other Government Agencies. The bank/DFI also share its own risk assessment results with its branch staffs which keep them more vigilant and alert when dealing with such customer, product, channel and geographies.

15. Banks/ DFIs should note that the relevant AML/CFT training combined with optimum use of technology is becoming inevitable due to ever changing nature of methods and trends in illicit activities. It is also important to test the capability and knowledge of the relevant staff on periodic basis. The online trainings and AML/CFT Tests of varying nature are available in the market offering opportunity for Banks/DFIs to equip their staff with relevant skills as per respective roles and responsibilities within the institution. As the periodic training of the front-end staff is crucial, which is the first point of contact with customer; Banks/DFIs shall either purchase or internally develop comprehensive AML/CFT/TFS Computer-based/online Training Programs and Tests under a comprehensive plan with clear timelines for its implementation.

The AML/CFT regulations are reviewed from time to time and amendments are made as per changing requirements and global developments in this area. SBP last updated above AML/CFT regulations in December, 2019 which can be accessed via below link:

<http://www.sbp.org.pk/bprd/2019/C7-AML-CFT-Regulations.pdf>

Further, in order to identify and verify customers and beneficial owners the Annexure-I of the above referred regulations require minimum documents to be obtained from various types of customers and provide examples or characteristics of Suspicious Transactions (Red Alerts) that may be a cause for increased scrutiny of transactions and relationships.

Besides above, SBP has also issued separate Guidelines on Risk Based Approach (“RBA”) <http://www.sbp.org.pk/bprd/2019/C8-RBA-Guidelines.pdf> and Banks/DFIs/MFBs have been required to improve their RBA as per Guidelines. In addition, banks/DFIs/MFBs have been advised to obtain guidance from National Risk Assessment (“NRA”) document, international standards and best practices including relevant Recommendations, interpretative notes, best practices papers etc. of the FATF and Basel Core Principles. The guidelines require banks/DFIs to apply risk-based approach in their relationships and services keeping in view the factors like customer type, products, delivery channels and location. The concept of Customers Risk Profiling Based on scenario-based ranking of customers has been developed along with development of Red Alerts to trigger scrutiny of accounts and transactions.

Similarly, SBP has issued comprehensive guidelines for Exchange Companies

<http://www.sbp.org.pk/epd/2019/FECL19-Updated-Exchange-%20Companies-.pdf>

including CDD obligations, identification and verification provisions for customers and the beneficial owners, obtaining nature and purpose of transactions, enhanced due diligence in high-

risk scenarios especially for PEPs, record keeping requirements for ten years, screening procedures for employee hiring, emphasis on training, appointment of Compliance Officer and adherence to UN resolutions as notified by Government of Pakistan, etc. Guidance has also been provided to Exchange Companies regarding web links to access AML law, AML regulations, STR/CTR reporting forms and guidance notes, Red Alerts and, contact numbers of officials of FMU etc.

SBP has also revised Prudential Regulations for Microfinance Banks (MFBs) to strengthen their governance structure, consumer protection practices, and anti-money laundering (AML) policies. MFBs have been required to implement comprehensive AML framework covering areas such as customer identification and verification requirements, ongoing & enhanced due diligence, record retention, and cash & suspicious transactions reporting in line with business activities of the MFBs.

<http://www.sbp.org.pk/acd/2019/C3-Revised-AML-CFT-Regulations-MFBs.pdf>

Regulatory framework is supplemented by an effective and robust supervisory regime.

State Bank of Pakistan (“SBP”) acknowledges the importance of supervising money laundering/terrorism financing (“ML/TF”) risk posed by the institution come under its purview. Due weightage is given to anti-money laundering/counter terrorism financing (“AML/CFT”) assessments in planning and executing different types of inspections, i.e. full scope, thematic and focused. In this regard, a robust risk-based methodology for assessing ML/TF risk is in place. This methodology undertakes a systematic approach taking into account the institution’s inherent ML/TF risk and controls deployed for mitigating these risks. The assessment of risks and controls support the supervisors to take specific stance on institutions and to determine the frequency and intensity of inspections in AML/CFT area. This risk-based methodology is synced with best international practices and was recently refined in collaboration with Technical Assistance (“TA”) provided by International Monetary Fund (“IMF”).

No. of Banks/MFBs/DFIs Inspected

Inspection Plan for the Year	Full Scope Inspection	Thematic Inspection	Others (Special, IS and Limited Scope Inspection)
2017-18	23	28	17
2018-19	19	34	5
2019-20	8	47	3

No. of Exchange Companies Inspected

Inspection Plan for the Year	Full Scope Inspection	Thematic Inspection	Others (Special, IS and Limited Scope Inspection)
2017-18	12	-	10
2018-19	13	-	6

2019-20	11	11	-
---------	----	----	---

SBP ensures the compliance of its instructions through of off-site/ on-site examinations. The financial institutions are selected for on-site inspections through risk-based approach. Any violation identified during on-site inspection is documented and made part of the inspection report. On the basis of identified violations, dissuasive and proportionate enforcement actions are taken including imposition of monetary penalties. In order to bring more transparency and strengthen market discipline, SBP has started disclosure of significant enforcement actions through its website since July 2019. Detail of these enforcement action is accessible through link <http://www.sbp.org.pk/BS/ef_.asp> while summary is given below:

Time Period	No. of Banks	Amount of Penalty (PKR in Million)
July 2019 to Jan 2020	17	1,583.30 million

(b). As regards the supervisory cooperation in banking matters, SBP is effectively engaged with foreign counter parts by entering into MOUs with foreign regulatory authorities on bilateral basis. Under this mechanism, SBP has so far signed twenty-three (23) MOUs/Agreements with the regulatory authorities of Sri Lanka, Vietnam, Bahrain, Indonesia, Mauritius, Bangladesh, Azerbaijan, Turkey, Syria, Oman, Kyrgyzstan, Hong Kong, Qatar, Kazakhstan, China, Jordan, Belarus, Nepal, Philippines, Russia, Tunisia, Belgium and Poland.

The MOUs generally cover the following areas of cooperation:

- a) Supervisory Information sharing for opening of new bank branches in respective jurisdiction
- b) Onsite inspections
- c) Support, in case of a material supervisory concern
- d) Training / capacity building
- e) Exchange of experts' visits
- f) Bilateral cooperation on matters of mutual interest

During the last three years, there were 58 cases where information/feedback on foreign nationals was sought and received from foreign central banks/Regulators to meet the Fitness & Proprietary (FPT) requirements to implement entry controls in banking sector.

SECP

Anti-Money Laundering Act 2010 is the comprehensive regulatory and supervisory regime, administered by Financial Monitoring Unit ("FMU") of Pakistan. Under the Act, AML/CFT obligations are imposed on financial institutions and the SECP and SBP are required to formulate AML/CFT regulations for their regulated entities. The SECP had imposed AML/CFT obligations on its regulated FIs, i.e. securities brokers, insurance companies, non-banking finance companies

and modarabas earlier separately through statutory regulatory orders and circulars. However, new consolidated regulations were issued, namely the SECP Anti Money Laundering and Countering Financing of Terrorism Regulations, 2018, which are fully compliant with the FATF Recommendations and require these financial institutions to identify the customer and their beneficial owner and conduct customer due diligence (CDD), enhanced due diligence (EDD), SDD, record keeping and reporting of suspicious transactions (STRs). Further, the SECP has also issued detailed guidelines on AML/CFT/ and Proliferation Financing (“PF”).

SECP has promulgated the SECP AML/CFT Regulations, 2018 and AML/CFT/PF Guidelines, 2018. The requirements are applicable on Securities Brokers, Insurance Companies, Non-Banking Finance Companies and Modarabas.

The Guideline on the Securities and Exchange Commission of Pakistan Anti-Money Laundering/Counter Financing of Terrorism Regulations, 2018 were issued on September 07, 2018 to supplement the regulations and to help regulated persons in developing an effective AML/CFT risk assessment and compliance framework. In addition, Not for Profit Objects Regulations, 2018 and Anti Money Laundering and Countering Financing of Terrorism Guidelines for NPOs, 2018 were issued for the NPO sector regulated by the SECP.

In order to implement effective risk-based approach, the guidelines provide templates for Risk Profiling of Customers, AML/CFT Risk Assessment Matrix and Controls Assessment. The regulated persons are required to file these templates with the Commission, to demonstrate the adequacy of assessment, management and mitigation of ML/TF risks.

Series of 23 awareness sessions/ workshops on the SECP AML/CFT Regulations and guidelines have conducted in Karachi, Lahore and Islamabad for the regulated sector on SECP AML/CFT Regulations 2018, guidelines, National Risk Assessment, Sectoral Risk Assessment and Reporting of Suspicious Transaction Report (STR) through Go AML system of the FMU.

Further, existing supervisory procedures were updated to develop a risk based supervisory manual to conduct off-site and on-site monitoring of the entities has been developed along with the enforcement strategy for non-compliant regulated entities.

A new online portal has been developed on SECP e-Services for immediate dissemination and reporting of Statutory Regulatory Orders (SROs) on designated and proscribed individuals and entities in order to effectively implement Targeted Financial Sanction (TFS) regime. The regulated persons are required to report their screening results and any match found within a specified timeline through this automated system. Image based step by step guidelines has been provided to RPs for filing responses on the portal.

Frequently Asked Questions (“FAQs”) on the implementation of AML/CFT regime have been placed on the SECP’s website. Departmental e-mail address is also in place to facilitate the regulated entities. To facilitate the regulated persons, Urdu translation of the regulations and guidelines is currently under process.

National Risk Assessment 2017 on Money Laundering highlights the following recommendations for each of the sector regulated by the SECP. It is pertinent to mention here that majority of these recommendations has been effectively implemented. This has also been endorsed by the ICRG Joint Group under the FATF Action Plan which is reflected by the fact that Immediate Outcome-3: Supervision and Regulation of Financial Institutions has been rated as Largely Compliant in the latest Pakistan Progress Report on the FATF Action Plan.

SECP recognizing the importance of international cooperation and assistance among jurisdictions, in 2016, inserted a new independent Section 42D regarding international cooperation and assistance to foreign regulatory authority in the Act through SECP (Amendment) Act, 2016 (XXXVI of 2016) to address the concerns and needs of SECP's on the subject of international cooperation and assistance as identified by the IOSCO Review Team (RT) during the Country Assessment in 2015. The section authorizes the Commission to seek and provide assistance on reciprocal basis, to international regulators for assisting in any inquiry or investigation for contravention of laws relating to financial services.

In addition to being a signatory to the IOSCO MMoU, SECP has entered into bilateral agreements with the following:

- a. Australian Securities and Investments Commission
- b. China Securities Regulatory Commission
- c. European Securities Market Authority
- d. Capital Markets Board (CMB) of Turkey
- e. Directorate of Insurance, Under Secretariat of Turkey
- f. Securities and Exchange Board of India
- g. Emirates Securities & Commodities Authority (ESCA)
- h. Capital Market Authority Sultanate of Oman
- i. Conseil Déontologique Valeurs Mobilières of Morocco
- j. Jordan Securities Commission
- k. Securities and Exchange Organization, Iran
- l. The Bimeh Markazi - Central Insurance of Iran
- m. Maldives Monetary Authority
- n. Royal Monetary Authority of Bhutan
- o. Securities and Exchange Commission of Sri Lanka

As stated above, SECP is a signatory to the IOSCO MMoU. Further details regarding the IOSCO MMoU can be accessed at www.iosco.org. In the last four years, SECP exchanged 69 requests for information/assistance with its foreign counterparts. Further, SECP has also developed guidelines for cooperation and assistance to foreign regulatory authorities, which provide a framework for international cooperation under section 42D of the SECP Act, 2016 and to stipulate formal mechanisms for sharing information and assistance under the Act or any administered legislation. The said guidelines can be accessed at:

<<https://www.secp.gov.pk/document/guidelines-for-cooperation-and-assistance-to-foreign-regulatory-authorities/?wpdmdl=29122>>

SECP submitted application for becoming signatory to the IOSCO Enhanced Multilateral Memorandum of Understanding (EMMoU). The significant advancements in technology witnessed by the financial markets entailed enhanced cooperation between the regulatory authorities. In this context, IOSCO has now established Enhanced Multilateral Memorandum of Understanding (EMMoU). The additional key powers that IOSCO has identified as necessary to ensure continued effectiveness in safeguarding market integrity and stability, protecting investors and deterring misconduct and fraud include:

- To obtain and share audit work papers, communications and other information relating to the audit or review of financial statements.
- To compel physical attendance for testimony (by being able to apply a sanction in the event of non-compliance).
- To freeze assets if possible, or, if not, advise and provide information on how to freeze assets, at the request of another signatory.
- To obtain and share existing internet service provider (ISP) records (not including the content of communications) including with the assistance of a prosecutor, court or other authority, and to obtain the content of such communications from authorized entities.
- To obtain and share existing telephone records (not including the content of communications) including with the assistance of a court, prosecutor or other authority, and to obtain the content of such communications from authorized entities.

Further, the SECP has entered into MOUs with State Bank of Pakistan, FBR and NACTA to share information.

The MOU between SECP and NACTA enable both institutions to collaborate, cooperate and coordinate to effectively carry out their respective statutory responsibilities for implementation of Anti Money Laundering and Combating the Financing of Terrorism (“AML/CFT”) regime and maintain the highest level of oversight quality, while minimizing duplication of efforts.

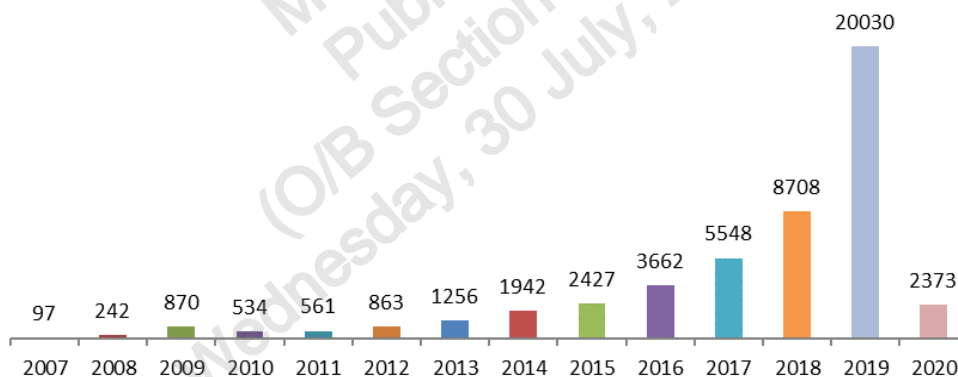
Examples of the implementation

FMU

Total STRs received at FMU:

A total of 49,113 STRs have been reported to FMU by different reporting entities till January,2020. The year wise segregation is provided below:

STRs Received by FMU since 2007 to Jan,2020



Sector wise STRs received at FMU:

The sector wise detail of received STRs is as follows:

Sr. No.	Reporting of STRs (Institutions Wise)	Total STRs
1	Private Commercial Banks	27,994
2	Public Commercial Banks	2,277
3	Islamic Banks	1,861
4	Foreign Banks	302
5	Specialized Banks	28
6	Investment Bank	1
7	Micro Finance Banks	3,452
8	Exchange Companies (A)	11,415
9	Exchange Companies (B)	802
10	Insurance	687
11	Brokerage Firm	50
12	Asset Management Firm	102
13	Leasing	5
14	Micro Finance Institutions	45
15	State Bank of Pakistan (SBP)	20
16	SECP	4
17	BSC-SBP	2
18	Central Directorate of National Savings	5
19	Pakistan Post	37
20	HBFC	2
21	Misc	22
	Total	49,113

Financial Intelligence sent under different Predicate Offences (2015-Jan,2020):

FMU actively conducts analysis of the received STRs, converts them into Financial Intelligence (“FI”) and then disseminates this intelligence to relevant Law Enforcement Agencies (“LEAs”) or regulators based on the underlying suspected predicate offences. The number of the FIs sent under different predicate offences to LEAs and Regulators from 2015 till January 2020 is provided below:

TF Related:

S.#	Designated categories of	Financial Intelligence

	offences as per FATF							
		2015	2016	2017	2018	2019	2020	Total
1	TF (UNSCR-1267)				1	31	6	38
2	TF (UNSCR-1373)				3	58	6	67
3	TF (UNSCR-1540)					2	0	2
4	TF (OFAC listed)				3	2	0	5
5	TF (FIA Red Book)				1	0	0	1
6	TF (others)	14	19	18	24	37	4	116
	TOTAL Terrorism Financing	14	19	18	32	130	16	229

ML Related:

S.#	Designated categories of offences as per FATF	Financial Intelligence						
		2015	2016	2017	2018	2019	2020	Total
1	Participation in an organized criminal group and racketeering;				1	0	0	1
2	Trafficking in human beings and migrant smuggling;	3	5	3	1	1	0	13
3	Sexual exploitation, including sexual exploitation of children;			2	1	1	0	4
4	Illicit trafficking in narcotic drugs	2	2	2	8	4	0	18

	and psychotropic substances;							
5	Illicit arms trafficking/Illegal Arms and Ammunition;			2	2	2	0	6
6	Illicit trafficking in stolen and other goods;					0	0	0
7	Corruption and bribery/Unexplained Assets as per NAO/Cheating Public At large/unjustified High Turnover	21	22	36	35	32	1	147
8	Fraud;	8	14	10	11	9	0	52
9	Counterfeiting currency;					0	0	0
10	Counterfeiting and piracy of products;					0	0	0
11	Environmental crime;					0	0	0
12	Murder, grievous bodily injury;	2				0	1	3
13	Kidnapping, illegal restraint and hostage-taking;					0	0	0
14	Robbery or theft;				1	0	0	1
15	Smuggling / Offences under Customs Act	29	27	39	13	6	0	114
15 (a)	Currency Smuggling;					2	0	2
16	Extortion;	1			3	0	0	4
17	Forgery;	1	1		1	0	0	3
18	Piracy; and					0	0	0
19	Insider trading and market manipulation.			1		1	0	2

20	Tax Evasion / Tax Crime		55	192	89	85	5	426
	TOTAL	67	126	287	166	143	7	796

Other:

S.#	Designated categories of offences outside FATF	Financial Intelligence						
		2015	2016	2017	2018	2019	2020	Total
1	Regulatory Violation/Regulatory Advice	17	14	72	36	40	5	184
2	Grey Telephony	1		2	2	1	1	7
3	Virtual Currency		1	2	5	0	0	8
4	Currency Smuggling;				1	0	0	1
5	Trade Based Money Laundering (TBML)			17	4	3	0	24
6	Hawala/Hundi	51	32	45	35	28	3	194
7	Illegal Trade in Financial Instruments	1			1	0	0	2
8	Not Determined/Ground Check			2	3	11	1	17
	TOTAL	70	47	140	87	83	10	437

SBP

No. of Banks/MFBs/DFIs Inspected

Inspection Plan for the Year	Full Scope Inspection	Thematic Inspection	Others (Special, IS and Limited Scope Inspection)
2017-18	23	28	17
2018-19	19	34	5

2019-20	8	47	3
---------	---	----	---

No. of Exchange Companies Inspected

Inspection Plan for the Year	Full Scope Inspection	Thematic Inspection	Others (Special, IS and Limited Scope Inspection)
2017-18	12	-	10
2018-19	13	-	6
2019-20	11	11	-

During the last 03 years, there were 58 cases where information/feedback on foreign nationals was sought and received from foreign central banks/Regulators to meet the Fitness & Proprietary (FPT) requirements to implement entry controls in banking sector.

Detail of these enforcement action is accessible through link <http://www.sbp.org.pk/BS/ef_.asp> while summary is given below:

Time Period	No. of Banks	Amount of Penalty (PKR in Million)
July 2019 to Jan 2020	17	1,583.30 million

Relevant Inspection data of the regulated sector is as follows:

Inspection before FY 2019

Securities Brokers

Year	SECP On-Site Inspection for KYC/ CDD	Number of Entities Selected under Joint Inspection Regulations, 2015 where KYC/ CDD was checked
2013	25	-
2014	25	-
2015	23	19
2016	15	51
2017	5	73

Insurance Sector

Year-wise Summary	Insurance Companies inspected
2013	5

2014	2
2015	2
2016	3
2017	6
2018	2
2019	27

NBFCs and Modarabas

Year	Number of Inspections*	Number of Thematic Reviews**
2013	9	-
2014	12	-
2015	9	-
2016	4	22
2017	7	-
2018	16	10
	14	10

* The inspection inter-alia covers compliance with AML/CFT Regulations

** Thematic review was specifically focused towards compliance with KYC/CDD

Inspection in 2019

Type of Institution	Ongoing Inspections in FY19
Securities Brokers	2
NBFCs and Modarabas	4
Insurance Companies	4
NPOs	25

Type of Institution	Inspections Completed in FY 19
Securities Brokers	30
NBFCs and Modarabas	10
Insurance Companies	6

NPOs	22
------	----

Penalties Imposed

Financial Institutions	FY 2014 to 2019
Securities Brokers	Rs.13.45 million
Insurance Companies	Rs. 3.56 million
NBFCs and Modarabas	Rs.3.2 million
Total	Rs. 20.21 million

Warnings Issued

Financial Institutions	FY 2014 to date
Securities Brokers	98
Insurance Companies	9
NBFCs and Modarabas	228
Total	335

SECP AML/CFT Regulations, 2020 provides the framework for regulated entities to establish systems to prevent ML/TF in the regulated entities. The regulated entities are required to develop ML/TF policies, procedures and controls including applying customer due diligence, ongoing monitoring measures, beneficial owner identification, screening against customers pursuant to UNSCR resolutions (proscribed individuals as well as organisation), record keeping and reporting of suspicious transactions etc.

Supervision of Designated Non-Financial Businesses and Professions (DNFBPs)

DNFBPs are defined in the AML Act 2010 which obligates every DNFBP to conduct Customer Due Diligence (CDD) including in the following matters.

- i. Establishment of Directorate General of DNFBPs;
- ii. Regulations and Guidelines:
 - a. Issued DNFBPs Regulations in exercise of powers under section 6A of the AML Act on 29-09-2020 (SRO 924(I)/2020);
 - b. Sanctions Rules issued vide SRO 950(I)/2020 by Finance Division;
 - c. Counter-measures for High Risk Jurisdictions Rules, 2020 vide SRO 951(I)/2020;

- d. Issued AML/CF Guidelines for Real Estate, Jewelers and Accountants.
 - e. Uploaded 8 Webinars on AML/CFT compliance and 06 short videos on its importance.
- iii. IT System & Mobile APP;
- a. An interactive DNFBP Management system linked with Mobile App;
 - b. Mobile App caters for registration, cross-matching with proscribed persons, submission of Offsite Monitoring Questionnaire and STRs generation.
- iv. Enforcements:
- a. Notices;
 - b. Onsite Inspections;
 - c. Imposition of Sanctions as per SRO 950(I)/920

There is the Directorate General of DNFBPs at FBR. Proper Regulations and Guidelines have been issued. An interactive DNFBP Management System linked with Mobile App, caters for registration, cross-matching with proscribed persons, submission of Offsite Monitoring Questionnaire and STRs generation.

Enforcement regime has also in placed Onsite Inspections and imposition of Sanctions on non-compliant is a regular feature of enforcement.

(b) Observations on the implementation of the article

The country's legal regime against money-laundering consists principally of the Anti-Money-Laundering Act, the Anti-Money-Laundering and Countering the Financing of Terrorism Sanctions Rules (2020), as well as regulations and guidelines issued by the various supervisory authorities.

CDD obligations in the AMLA apply equally to FI and all DNFBPs. In addition to the CDD obligations on DNFBPs in the AMLA (S.7), further detailed CDD obligations have been issued in enforceable regulations for each DNFBP sector, with the exception of lawyers (Federal Board of Revenue (FBR) AML/CFT Regulations 2020 cover real estate agents and dealers in precious metals and stones (DPMS); Institute of Chartered Accountant of Pakistan (ICAP) AML/CFT Regulations 2020 covers chartered accountants; and Institute of Cost and Management Accountants of Pakistan (ICMAP) AML/CFT Regulations cover accountants).

To comply with anti-money-laundering requirements, all financial institutions and designated non-financial businesses and professions must have in place internal anti-money-laundering systems that include customer and beneficial owner identification; ongoing monitoring of transactions; application of enhanced due diligence to high-risk customers, accounts and transactions; and record-keeping and reporting of suspicious transactions (see the section on article 52 of the Convention, below).

Pakistan issued the AML/CFT Sanctions Rules 2020, under Section 6A(2)(h) and 6C(c) of the AMLA. These rules provide for sanctions and penalties in respect of violations of the AMLA and AML/CFT Regulations.

The AMLA designates AML regulatory authorities for financial institutions and DNFBPs and empowers them with necessary powers and functions to monitor compliance (Section 6A together with Schedule IV of the AMLA). Pakistan also issued Notification of Competent authorities as Oversight Bodies for SRBs (SRO 952).

There are two AML/CFT supervisors for Pakistan's financial sector: Under the SBP Act, SBP is responsible for prudential and AML/CFT regulation/supervision of commercial banks (conventional and Islamic), development financial institutions (DFIs), microfinance banks (MFB), and exchange companies (ECs); Under the SECP Act, SECP is responsible for prudential and AML/CFT regulation/supervision of securities brokers, commodities brokers, non-bank financing companies, insurers, takaful operators and modarabas. SBP and SECP both implement a risk-based supervision.

The anti-money-laundering supervisory regime for designated non-financial businesses and professions is relatively new. The Anti-Money-Laundering Act designates anti-money-laundering regulatory authorities for financial institutions and designated non-financial businesses and professions, and provides them with the necessary powers and functions to monitor compliance (sect. 6A and schedule IV of the Anti-Money-Laundering Act). Those regulatory authorities include the State Bank of Pakistan, SECP, the Federal Board of Revenue, the Institute of Chartered Accountants, the Institute of Cost and Management Accountants and the Pakistan Bar Council, as well as the Directorate General of Designated Non-financial Businesses and Professions at the Federal Board of Revenue. An interactive designated non-financial business and profession management system linked to an application for mobile phones allows for registration, cross-matching with proscribed persons, submission of the off-site monitoring questionnaire and generation of suspicious transaction reports. On-site inspections are conducted and sanctions imposed for non-compliance.

Pakistan completed its first national risk assessment for money-laundering and terrorism financing in 2017, identifying corruption among the high-risk and high-threat predicate crimes. In September 2019, the country issued a new national risk assessment, which will be updated every two years. Pakistan is currently reviewing the risk assessment of 2019, with the review due to be finalized in 2023.

The 2019 NRA was developed by a working group that included representation of all stakeholders. Pakistan established an NRA Commission that is responsible for updating the NRA and monitoring emerging risks on an ongoing basis, and developing new trends and typologies papers on ML/TF.

The 2019 NRA has been disseminated to all competent authorities and FIs and the results have been shared with DNFBPs through outreach by supervisors and self-regulatory bodies.

Subparagraph 1 (b) of article 14

1. Each State Party shall: ...

(b) Without prejudice to article 46 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it was in compliance and this provision and referred to the information provided in preceding paragraph.

(b) Observations on the implementation of the article

The Financial Monitoring Unit was established in 2007 under section 6 of the Anti-Money-Laundering Ordinance (2007) (now the Anti-Money-Laundering Act). The Unit, law enforcement and supervisory and regulatory authorities cooperate and exchange information at both the domestic and international levels, and have information exchange arrangements such as memorandums of understanding and letters of intent.

Paragraph 2 of article 14

2. States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

FBR

Section 139 of the Customs Act, 1969 mandate every passenger coming into or going out of Pakistan to declare the amount of currency he is carrying. In order to streamline the declaration of currency and to get real time information. The Customs Department has introduced Currency Declaration System (“CDS”) which capture the currency declared by the passenger online. The CDS System can be assessed by Financial Monitoring Unit to carry out analysis of the data.

The State Bank vide Notification No. FE 4/2018-SB dated August 6, 2018 has notified that any person carrying foreign currency notes exceeding US\$ 10,000 or equivalent within Pakistan shall be responsible to prove that the foreign currency notes have been acquired through authorized sources and the funds used for acquisition of such foreign currency are legitimate. In case of failure to prove the legitimacy of the funds, he shall be liable for action under relevant laws including Customs Act, 1969, Foreign Exchange Regulation Act- 1947 and AML Act, 2010.

Moreover, the Directorate of Cross Border Currency Movement (“CBCM”) was created in June, 2019 and it became functional in August, 2019. The role of newly created Directorate of CBCM is to co-ordinate among the Regional Directorates of the Directorate General, Intelligence & Investigation-Customs; Customs filed formations, Financial Monitoring Unit (“FMU”) and other Law Enforcement Agencies (“LEAs”). The Directorate of CBCM collected data of currency smuggling cases from all Collectorates / Directorates and conducted analysis of this data by utilizing information received from Financial Monitoring Unit (“FMU”) as well. By virtue of effective coordination of the CBCM Directorate and proper guidance to the concerned staff of the Regional Offices, the capabilities of Customs staff regarding interdiction, investigation, prosecution of currency smuggling cases and TBML cases have been improved exponentially.

SBP

In order to strengthen monitoring of export and import payments to/from Pakistan and curb the

informal and illegal transfer of foreign exchange, Electronic Export and Import Forms modules have been developed by SBP and Pakistan Customs in consultation with relevant stakeholders in Pakistan Customs' system called Web Based One Customs ("WeBOC").

Whereas, the State Bank vide Notification No. FE 4/2018-SB dated August 6, 2018 has notified that any person carrying foreign currency notes exceeding US\$ 10,000 or equivalent within Pakistan shall be responsible to prove that the foreign currency notes have been acquired through authorized sources and the funds used for acquisition of such foreign currency are legitimate. In case of failure to prove the legitimacy of the funds, he shall be liable for action under relevant laws including Foreign Exchange Regulation Act-1947 and AML Act, 2010.

Further, previously the carriers of foreign currencies, incoming/outgoing to/from Pakistan, were exempted from declaring foreign currencies to designated authorities (Customs). After amendment in Protection of Economic Reforms Act, 1992 ("PERA, 1992"), this exemption has been withdrawn and every incoming and outgoing passenger is bound to declare cash currencies to Custom authorities as prescribed by the State Bank of Pakistan i.e. equal to US\$ 10,000.

FMU

In addition to conducting tactical analysis, FMU also conducts the strategic analysis in important areas especially the ones identified as high risk in the reports published by FATF. The purpose of strategic analysis is to identify the risks and vulnerabilities related to a certain area and then provide recommendations to relevant stakeholders for strengthening the AML/CFT regime in Pakistan. Various Strategic Analysis developed by FMU are available on FMU website for sharing with public and private sector for operational and strategic initiatives (which can be accessed at link: <http://www.fmu.gov.pk/strategic-analysis/>). FMU has also conducted the strategic analysis on Currency Smuggling and Cash Couriers.

Strategic Analysis on Currency Smuggling and Cash Couriers:

The recent wave of terrorism as well as efforts to launder money from corruption, smuggling, extortion and other illegal means compelled the government of Pakistan to take appropriate measures for monitoring /deter cash couriers and cross border currency smuggling. In order to monitor cross-border currency, bearer negotiable instruments and other precious commodities (i.e. gold, precious stones) movement, various steps have been taken by Pakistani authorities, which also include provision of access of FBR Customs Currency Declaration System (WeBOC) to Financial Monitoring Unit (FIU of Pakistan). After getting access to WeBOC Currency Declaration Record, FMU decided to conduct strategic analysis on the data of currency declaration records of individuals travelling outside of Pakistan. The brief version of this strategic analysis is provided below:

Analysis of Currency Declaration Records:

During this analysis, total 18,086 Currency Declaration Records for the period between 01-Jan-19 to 30-Sep-19 with approx. declared amount of PKR 6,674,106,891/- were analyzed.

Analytical Parameters:

While conducting analysis of WeBOC Currency Declaration Records, following key analytical parameters were adopted:

- Ø Time Period of Data Analysis
- Ø Number and Amount of Records
- Ø Top Travel Destinations
- Ø Exit Border Points / Airports
- Ø Frequent Travelers
- Ø Category wise Frequent Travelers
- Ø Amount Declared by Frequent Travelers
- Ø Destination Countries of Frequent Travelers

Important Observations:

While analyzing the frequent travellers' data, 26 STRs were found in FMU's database which were reported on 14 Individuals frequently travelling outside of Pakistan. The details of some of these suspects are provided below:

- One suspect was found under investigation by FIA CTW for his alleged involvement in terrorism and terrorism financing related activities. He travelled four times during the analysis period (01-Jan-19 till 30-Sep-19) and had declared total sum equivalent to PKR 3,724,120/- which was very high. The suspect had travelled twice to USA, another two visits were of UAE and Malaysia respectively.
- One suspect was found under inquiry with NAB. The suspect visited UAE twice during the analysis period and declared total equivalent sum of PKR 2,255,639/-.
- One suspect was found under inquiry with Model Customs Collectorate of Preventive Air Freight Unit, Jinnah International Airport Karachi for tax fraud of PKR 300,000/-. It was observed that the suspect travelled to Thailand and Taiwan and declared total sum equivalent of PKR 941,477/-
- It was found that legal proceeding had been initiated against a suspect in Provincial Accountability Anti-Corruption Court (PACC). It is pertinent to mention that the suspect had travelled to two countries UAE and Turkey during the analysis period and had declared total sum equivalent of PKR 3,000,880/-
- Total 05 STRs were found on one suspect. He was a salaried individual and frequently engaged in purchasing FCY. The suspect had travelled twice to UAE and declared total sum equivalent of PKR 1,886,600/-
- Total 08 STRs were found on one suspect which were reported by different banks. The suspect was a real estate agent conducting transactions with unrelated counterparties. The suspect had travelled twice to UAE but declared negligible amount in currency declaration forms.

Recommendations /Suggestions:

Based on the strategic analysis, following suggestions/recommendations were made to the relevant LEA and/or banking regulator:

- Pakistan Customs should also obtain and provide nationality details especially in case of foreigners. This will be helpful to make segregation between foreigners and Pakistan Nationals' CDRs (Currency Declaration Reports).
- It was observed that only currency details was provided however, BNI (Bearer Negotiable Instruments) or gold / precious metals were either not declared or not being part of currency declaration records provided to FMU. It was suggested that gold/precious metals declaration should also be obtained and provided to FMU.
- Purpose of foreign Trip or Purpose of visit should also be the part of the currency declaration form.
- In addition to provision of access of currency declaration system to FMU, Pakistan Custom and FMU should also technically collaborate to add these records on goAML. Since, FMU's goAML application is capable to add another report type for these currency declaration records by which these currency records will automatically become part of the individual's profiles reported to FMU in STRs.

The findings of the Strategic Analysis were shared with Federal Board of Revenue, Federal Investigation Agency and State Bank of Pakistan under the AML Act, 2010 for any action deemed appropriate.

Examples of the implementation

Number of currency smuggling cases detected by the Customs Department for the period of **01.01.2014 to 09.03.2020**.

S. N o	Total number of currency cases	Amount involved in USD
1	215	9,860,120

(b) Observations on the implementation of the article

The cross-border declaration system of Pakistan combines obligations under the Customs Act (1969) and the Foreign Exchange Regulation Act (1947). Pakistan has adopted a written declaration system for persons entering the country with cash and bearer negotiable instruments with a value that equals or exceeds \$10,000 or its equivalent in another currency (notification F.E.1/2012-SB (the currency declaration form prescribed under the Foreign Exchange Regulation Act)). Persons carrying more than \$10,000 or the equivalent out of Pakistan must first seek permission to do so from the State Bank of Pakistan (notification F.E.2/98-SB).

Cross-border transportation of currency and BNI by post/mail is prohibited inbound and outbound under SBP's Foreign Exchange Manual (Chapter 18, s.4). This system has been operationalised at all official entry and exit points in Pakistan since September 2019 (SRO 689(I) 2019).

The Customs Act establishes a graded penalty regime for false declarations and failure to declare, with penalties ranging from administrative fines to criminal penalties, including seizure and confiscation of falsely declared or undeclared cash (sects. 139 and 156 (1)).

In the most serious cases, the Customs Act provides for possible prison terms of a minimum of five years and maximum of 14 years. Customs officers may levy administrative fines for failure to declare currency under the USD10,000 threshold and for figures between USD10,000 – 20,000. Failure or mis-declaration of currency above USD20,000 is subject to criminal adjudication and can include custodial sentencing.

Paragraph 3 of article 14

3. States Parties shall consider implementing appropriate and feasible measures to require financial institutions, including money remitters:

- (a) To include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator;*
- (b) To maintain such information throughout the payment chain; and*
- (c) To apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.*

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

FIA

All the banks and foreign exchange companies in Pakistan maintain Know Your Customer (“KYC”). They maintain payment chains through threshold of KYC. If threshold of KYC is crossed alerts are raised in their system resultantly, STRs and CTRs are generated. Foreign Exchange Regulation Act 1947 is on FIA schedule. FIA takes cognizance if provision of this act is violated.

Answer: FIA immigration and anti-smuggling unit at all international airports of Pakistan have been taking actions against currency smuggler under FER Act 1947. The offenders are facing trial in court / tribunals.

SBP

The legal framework governing the payment systems in Pakistan in Payment Systems & Electronic Funds Transfers Act, 2007. The law provides powers to SBP to supervise and regulate Payment Systems and Electronic Fund Transfers in Pakistan, to provide standards for protection of the consumer, and to determine respective rights and liabilities of the financial institutions and other Service Providers, their consumers and participants. The law provides legal mandate to State Bank in respect of payment systems, the conduct of all or any of the Service Providers, Operators of Payment Systems or issuers of Payment Instruments, issue such rules, guidelines, circulars, byelaws, standards or directions, as it may consider appropriate.

Exercising the powers granted to State Bank under the Payment System & Electronic Fund Transfer Act, 2007, State Bank of Pakistan has issued a comprehensive Electronic Fund Transfer (“EFT”)

Regulation in 2018.

These regulations highlight the originator, Payment System Operator /Payment Service Provider (“PSP”) and Beneficiary responsibilities, Pre-authorized Transfers, Compensation Policy for unauthorized and / or delayed EFT, Disclosure requirement, Periodic Statement, Dispute Resolution process and Record Retention and Reporting requirement etc.

These regulations are applicable to domestic Electronic Fund Transfers, being offered /processed by SBP regulated entities which are initiated/ processed through alternative delivery channels (ADCs) such as Point of Sale (“POS”) terminals, Automated Teller Machines (“ATMs”), mobile banking, internet banking, call Centre banking, branchless banking platforms, Real-time Gross Settlement System and any other channel as and when approved by SBP.

Regulated entities (originator and beneficiary) are required under these Regulations to establish/upgrade their systems/infrastructure to ensure that Electronic Fund Transfer messages processed/routed through different channels and instruments contain the following information at minimum:

- a. Name of the Originator
- b. Name of the Beneficiary
- c. Originator’s IBAN / Mobile Account Number (if applicable)
- d. Beneficiary’s International Bank Account Number International Bank Account Number (IBAN)/ Mobile Account Number (if applicable)
- e. Originating Bank Name
- f. Beneficiary Bank Name
- g. Transaction Reference Number
- h. Date and Time of the Transfer
- i. Amount of transaction

The EFT Act,2007 and EFT Regulations may be accessed by clicking below links:

http://www.sbp.org.pk/psd/2007/EFT_Act_2007.pdf

<http://www.sbp.org.pk/psd/2018/C3-Annex-A.pdf>

Further, SBP in its AML/CFT Regulations R-3 (Wire Transfer/Fund Transfer) has clearly described the requirements and responsibilities of Ordering, Beneficiary and Intermediary Institute to verify the identity of originator and beneficiary and contain the full information throughout the payment chain. The details can be accessed on below link:

<http://www.sbp.org.pk/bprd/2019/C7-AML-CFT-Regulations.pdf>

(b) Observations on the implementation of the article

Regulation 3 of the anti-money-laundering and countering the financing of terrorism regulations of the State Bank of Pakistan (2020) establishes adequate wire transfer rules, including requiring banks and development finance institutions to ensure that necessary and accurate originator and beneficiary information is included when initiating, forwarding or receiving a wire transfer and to retain records. The regulation also prohibits banks and development finance institutions from pursuing electronic fund transfer transactions where the information provided does not meet the requirements (sect. 6 (6)).

Hawala/hundi operators are illegal in Pakistan under the Foreign Exchange Regulation Act 1947 and therefore not subject to supervision. Illegal MVTS was identified as high risk in the 2019 NRA. Accordingly, Pakistan amended the Foreign Exchange Regulations Act (FERA) in 2020 to enhance sanctions against illegal MVTS, raising the maximum years of imprisonment for up to five years or a fine, or both, as well as confiscation of property.

Paragraph 4 of article 14

4. In establishing a domestic regulatory regime and supervisory regime under the terms of this article, and without prejudice to any other article of this Convention, States Parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

1. FMU

Pakistan's domestic AML framework has been developed in line with the International Requirements such as:

- FATF Recommendations
- UN Conventions
- Basel Requirements, etc.

2. SBP

Pakistan's domestic AML Framework has been developed in line with the International Requirements such as:

- FATF's 40 Recommendations
- United Nations Conventions/Resolutions
- Basel and its core principles requirements, etc

Further SBP always update its AML/CFT regulations as per requirements of international convention and standards. Example: when FATF updated its standards in 2012, SBP has also updated in same year and recently in light of observations highlighted in MER, SBP revised its AML/CFT regulations in December 2019.

3. SECP

Pakistan is member of the Asia Pacific Group on Money Laundering and the FATF Recommendations are applicable on it. Pakistan is currently undergoing mutual evaluation by the APG.

As stated above, SECP is a signatory to the IOSCO MMoU. Further details regarding the IOSCO MmoU can be accessed at www.iosco.org. Further, SECP has also developed guidelines for

cooperation and assistance to foreign regulatory authorities, which provide a framework for international cooperation under section 42D of the SECP Act, 2016 and to stipulate formal mechanisms for sharing information and assistance under the Act or any administered legislation. The said guidelines can be accessed at <https://www.secp.gov.pk/document/guidelines-for-cooperation-and-assistance-to-foreign-regulatory-authorities/?wpdmdl=29122>

SECP intends to submit application for becoming signatory to the IOSCO Enhanced Multilateral Memorandum of Understanding (EMMoU). The significant advancements in technology witnessed by the financial markets entailed enhanced cooperation between the regulatory authorities. In this context, IOSCO has now established Enhanced Multilateral Memorandum of Understanding (EMMoU). The additional key powers that IOSCO has identified as necessary to ensure continued effectiveness in safeguarding market integrity and stability, protecting investors and deterring misconduct and fraud include:

- To obtain and share audit work papers, communications and other information relating to the audit or review of financial statements.
- To compel physical attendance for testimony (by being able to apply a sanction in the event of non-compliance).
- To freeze assets if possible, or, if not, advise and provide information on how to freeze assets, at the request of another signatory.
- To obtain and share existing internet service provider (ISP) records (not including the content of communications) including with the assistance of a prosecutor, court or other authority, and to obtain the content of such communications from authorized entities.
- To obtain and share existing telephone records (not including the content of communications) including with the assistance of a court, prosecutor or other authority, and to obtain the content of such communications from authorized entities.

The SECP has recently issued the SECP AML/CFT Regulations, 2018, which are fully compliant with the FATF Recommendations and it is under working to enhance compliance level of Fis with the new regulations under the action plan agreed with the FATF's Joint Group.

(b) Observations on the implementation of the article

Pakistan AML/CFT regime was first assessed by the World Bank and APG in 2009. The second mutual evaluation report (MER) of Pakistan was adopted by the APG in August 2019. Pakistan has developed a multi-agency action plan (referred to as a 'roadmap') to address the deficiencies in the MER. This roadmap took effect in November 2019 and sets out actions to be taken and responsible agencies. Subsequently, 3 Follow-Up Reports (FURs) submitted by Pakistan were considered and adopted by APG in August 2020, May 2021 and July 2021 respectively. Given these results and the effectiveness ratings of its 2019 MER, Pakistan was originally placed on enhanced (expedited) follow-up. Following its second FUR, Pakistan was removed from enhanced (expedited) follow-up and placed on enhanced follow-up.

Pakistan has taken measures, including amendments to the Anti-Money-Laundering Act, to address many of the shortcomings identified in the mutual evaluation report published by the Asia/Pacific Group on Money Laundering in 2019, including those related to preventive measures and supervision.

Paragraph 5 of article 14

5. States Parties shall endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

FMU

Pakistan is the member of APG and as per the requirements; it frequently interacts with the international bodies like APG / FATF. FMU also informs, advises and co-operates with supervisory authorities, law enforcement agencies, reporting entities and exchanges information domestically and internationally to combat money laundering and terrorism financing.

Section 6(4)(e) and (j) of AML Act, 2010 requires FMU to co-operate with financial intelligence units in other countries and to make reciprocal arrangements to share, request and receive information relating to money laundering and financing of terrorism; Moreover, it further requires FMU to enter into arrangements with domestic agencies and authorities or engage a financial institution or an intermediary or such other non-financial businesses and professions or any of its officers as may be necessary for facilitating implementation of the provisions of AML Act.

Domestic Cooperation:

FMU disseminates the financial intelligences to the designated Law Enforcement Agencies (LEAs) and regulators. In addition to financial intelligences disseminations, FMU actively coordinates with the LEAs, regulators, relevant ministries by making requests of information to the said entities and responding to the requests received from them in various cases. All the requests are timely responded to ensure valuable use of the information. The year wise data related to inward and outward domestic requests for information is provided as under:

Domestic Cooperation

As on 31.01.2020

Data for Domestic Requests (2012-2020)									
Incoming						Outgoing			
Year	Requests Received	Responded	Pending	Recorded / No Action Required	Voluntary Disclosures Received	Requests Made	Responses Received	Pending/ No Action Required	Voluntary Disclosures Made
2012	1	1	0	0	0	0	0	0	0
2013	7	7	0	0	0	0	0	0	0
2014	16	16	0	0	0	0	0	0	0
2015	20	20	0	0	0	0	0	0	0
2016	22	22	0	0	0	1	1	0	0
2017	32	32	0	0	0	18	13	5	0
2018	108	105	0	3	0	3	2	1	1

2019	463	463	0	0	0	1	1	0	0
2020	22	22	0	0	0	0	0	0	0
Total	691	688	0	3	0	23	17	6	1

Multilateral Memorandum of Understanding amongst Law Enforcement and Intelligence Agencies

NACTA has organized a Multilateral Memorandum of Understanding (MoU) amongst 14 Law Enforcement Agencies (LEAs) in 2019 which included NAB, FIA, FBR, ANF, Intelligence Agencies and all the Provincial CTDs. FMU is also the part of this MMoU. The signing ceremony of the MoU was chaired by National Coordinator NACTA during the 14th meeting of National Task Force on CFT held on 09th April, 2019 at NACTA Headquarters, Islamabad. This MMoU has further improved the cooperation among all the stakeholders and strengthened the AML/CFT regime in Pakistan.

International Cooperation:

Coordination / cooperation between financial intelligence units (FIUs) is vital in the global fight against money laundering and terrorism financing. FIUs share financial transaction information and intelligence with a number of counterpart FIUs as this information exchange benefits not only the operational work of the FIUs, but also law enforcement agencies in tracking the international movements of the proceeds of crime. Generally, FIUs formalize international exchange understandings through some form of exchange instruments e.g., Memorandum of Understanding (MOU), Exchanges of Letters or through the forum of Egmont Group.

MOUs Signed/In Process with other FIUs:

FMU has signed 15 MoUs, for exchange of information related to money laundering and terrorist financing with other countries. The details are as follows:

MOUs Signed:

S.#	Name of Country
1	Iran
2	Sri Lanka
3	Turkmenistan
4	Turkey
5	Kazakhstan
6	UK
7	Qatar
8	Malawi
9	China

10	Lebanon
11	Seychelles
12	UAE
13	Australia
14	Tajikistan
15	Malaysia

Information exchange with other FIUs and agencies:

Despite the fact that Pakistan is not a member of Egmont Group, FMU continued its support and coordination with other international FIUs and agencies. The year wise data related to inward and outward international requests for information is provided as under:

International Cooperation

As on 31.01.2020

Data for International Requests (2011-2020)								
Incoming					Outgoing			
Year	Requests Received	Responded	Pending/ No Action Required	Voluntary Disclosures Received	Requests Made	Response Received	Pending/ No Action Required	Voluntary Disclosures Made
2011	2	2	0	0	0	0	0	0
2012	2	2	0	0	0	0	0	0
2013	0	0	0	0	0	0	0	0
2014	3	3	0	1	0	0	0	0
2015	3	3	0	2	1	1	0	0
2016	0	0	0	0	1	1	0	0
2017	8	6	2	0	2	1	1	0
2018	5	4	1	1	4	1	3	0
2019	7	7	0	1	7	1	6	0
2020	0	0	0	0	38	0	38	0
Total	30	27	3	5	53	5	48	0

Visit of Delegation of UK Government Officials (1-2 October 2019):

A delegation of officials of United Kingdom (UKFIU) accompanied by the NCA's International Corruption Unit and the NCA International Team visited Financial Monitoring Unit, Karachi during 1-2 October 2019. During the visit, the UKFIU delegation held multiple meetings with Senior Officials of the Regulatory Bodies and Law Enforcement Agencies to discuss coordination among authorities on AML/CFT and FMU. THE UK Delegation also briefed the participants about the

JMLIT Model and the idea of forming a similar model in Pakistan was also discussed. Earlier this year, in May 2019, the Financial Monitoring Unit signed an MOU with the UK Financial Intelligence Unit.

Visit of Officials of Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK), Financial Intelligence Unit of Indonesia 17-19 December, 2019:

A senior level delegation comprising of officials from FIU Indonesia, on the invitation of Pakistan, visited Pakistan from 17-19 December, 2019. The purpose of the visit of Indonesia delegation to Pakistan was to seek guidance and learn from Indonesia's experiences in reforming Pakistan's AML/CFT framework. During the visit to Pakistan, the Indonesian delegation interacted with key stakeholders responsible for AML/CFT related work. This visit provided an opportunity to highlight the actions taken by Pakistan for implementation of the FATF Action Plan and further strengthen relations between technical sides of both countries dealing with AML/CFT issues.

Pakistan's Egmont Group Membership:

FMU's Egmont Group is being processed by FMU's co-sponsors (FinCEN-USA and JAFIC-Japan). There were certain amendments required in the AML Act, 2010 which have been made by the Parliament in February 2020. It is expected that FMU would be part of Egmont Group by 2021.

SBP

Steps/ measures taken:

International Coordination:

Pakistan is a member of Asia Pacific Group on Money Laundering ("APG") and as per the requirement frequently interaction takes place with the international bodies like ("APG"), FATF, IMF and World Bank.

As regards the supervisory cooperation in banking matters, SBP is effectively engaged with foreign counter parts by entering into MOUs with foreign regulatory authorities on bilateral basis. Under this mechanism, SBP has so far signed twenty (23) MOUs/Agreements with the regulatory authorities of Sri Lanka, Vietnam, Bahrain, Indonesia, Mauritius, Bangladesh, Azerbaijan, Turkey, Syria, Oman, Kyrgyzstan, Hong Kong, Qatar, Kazakhstan, China, Jordan, Belarus, Nepal, Philippines, Russia, Tunisia, Belgium and Poland.

The MOUs generally cover the following areas of cooperation:

1. Supervisory Information sharing for opening of new bank branches in respective jurisdiction
2. Onsite inspections
3. Support, in case of a material supervisory concern
4. Training / capacity building
5. Exchange of experts' visits
6. Bilateral cooperation on matters of mutual interest

During the last 03 years, there were 58 cases where information/feedback on foreign nationals was sought and received from foreign central banks/Regulators to meet the Fitness & Proprietary (“FPT”) requirements to implement entry controls in banking sector.

SECP

Under Section 42D of the SECP Act, 1997, the SECP can share information with foreign counter parts. Further, the SECP has entered into MOUs with State Bank of Pakistan, FBR and NACTA to share information. In addition, section 41B of the SECP Act, 1997 allows the SECP to refer cases to law enforcement authorities.

In addition to being a signatory to the IOSCO MMoU, SECP has entered into bilateral agreements with the following:

1. Australian Securities and Investments Commission
2. China Securities Regulatory Commission
3. European Securities Market Authority
4. Capital Markets Board (CMB) of Turkey
5. Directorate of Insurance, Under Secretariat of Turkey
6. Securities and Exchange Board of India
7. Emirates Securities & Commodities Authority (ESCA)
8. Capital Market Authority Sultanate of Oman
9. Conseil Deontologique Valeurs Mobilières of Morocco
10. Jordan Securities Commission
11. Securities and Exchange Organization, Iran
12. The Bimeh Markazi - Central Insurance of Iran
13. Maldives Monetary Authority
14. Royal Monetary Authority of Bhutan
15. Securities and Exchange Commission of Sri Lanka
16. Financial Conduct Authority (FCA), UK

As stated above, SECP is a signatory to the IOSCO MMoU. Further details regarding the IOSCO MMoU can be accessed at <http://www.iosco.org>. In the last four years, SECP exchanged 69 requests for information/assistance with its foreign counterparts. Further, SECP has also developed guidelines for cooperation and assistance to foreign regulatory authorities, which provide a framework for international cooperation under section 42D of the SECP Act, 2016 and to stipulate formal mechanisms for sharing information and assistance under the Act or any administered legislation. The said guidelines can be accessed at <https://www.secp.gov.pk/document/guidelines-for-cooperation-and-assistance-to-foreign-regulatory-authorities/?wpdmdl=29122>

SECP being a member of the International Association of Insurance has also submitted its application for IAIS MMoU. The IAIS MMoU is a global framework for cooperation and information exchange between insurance supervisors. SECP’s application is currently under validation at the IAIS Secretariat.

Further, SECP intends to submit application for becoming signatory to the IOSCO Enhanced Multilateral Memorandum of Understanding (“EMMoU”). The significant advancements in technology witnessed by the financial markets entailed enhanced cooperation between the regulatory authorities. In this context, IOSCO has now established Enhanced Multilateral Memorandum of Understanding (EMMoU). The additional key powers that IOSCO has identified as necessary to ensure continued effectiveness in safeguarding market integrity and stability, protecting investors and deterring misconduct and fraud include:

- To obtain and share audit work papers, communications and other information relating to the audit or review of financial statements.
- To compel physical attendance for testimony (by being able to apply a sanction in the event of non-compliance).
- To freeze assets if possible, or, if not, advise and provide information on how to freeze assets, at the request of another signatory.
- To obtain and share existing internet service provider (ISP) records (not including the content of communications) including with the assistance of a prosecutor, court or other authority, and to obtain the content of such communications from authorized entities.

To obtain and share existing telephone records (not including the content of communications) including with the assistance of a court, prosecutor or other authority, and to obtain the content of such communications from authorized entities.

Examples of the implementation

Statistics on domestic cooperation is as follows:

	FBR	FIA	NAB	Sindh Revenue Board	Anti-Narcotics Force	Customs	EOBI	Punjab Revenue Authority	Excise & Taxation	PTA	Other Departments	Total
2013-14	72	8	34	-	-	14	3	-	2	3	2	138
2014-15	8,811	15	39	-	-	-	9	-	3	-	1	8,878
2015-16	8,314	46	105	-	-	2	5	4	1	-	292	8,769
2016-17	1,896	55	184	127	89	13	8	9	2	1	6	2,390
2017-18	1,567	2,230	450	-	-	-	1	13	1	1	419	4,682
Total	20,660	2,354	812	127	89	29	26	26	9	5	720	24,857

SBP

During the last 03 years, there were 58 cases where information/feedback on foreign nationals was sought and received from foreign central banks/Regulators to meet the Fitness & Proprietary (“FPT”) requirements to implement entry controls in banking sector by SBP.

Information exchange with other FIUs and agencies:

Despite the fact that Pakistan is not a member of Egmont Group, FMU continued its support and coordination with other international FIUs and agencies. The year wise data related to inward and outward international requests for information is provided as under:

International Cooperation

As on 31.01.2020

Data for International Requests (2011-2020)								
Incoming					Outgoing			
Year	Requests Received	Responded	Pending/No Action Required	Voluntary Disclosures Received	Requests Made	Response Received	Pending/No Action Required	Voluntary Disclosures Made
2011	2	2	0	0	0	0	0	0
2012	2	2	0	0	0	0	0	0
2013	0	0	0	0	0	0	0	0
2014	3	3	0	1	0	0	0	0
2015	3	3	0	2	1	1	0	0
2016	0	0	0	0	1	1	0	0
2017	8	6	2	0	2	1	1	0
2018	5	4	1	1	4	1	3	0
2019	7	7	0	1	7	1	6	0
2020	0	0	0	0	38	0	38	0
Total	30	27	3	5	53	5	48	0

Visit of Delegation of UK Government Officials (1-2 October 2019):

A delegation of officials of United Kingdom (UKFIU) accompanied by the NCA's International Corruption Unit and the NCA International Team visited Financial Monitoring Unit, Karachi during 1-2 October 2019. During the visit, the UKFIU delegation held multiple meetings with Senior Officials of the Regulatory Bodies and Law Enforcement Agencies to discuss coordination among authorities on AML/CFT and FMU. THE UK Delegation also briefed the participants about the JMLIT Model and the idea of forming a similar model in Pakistan was also discussed. Earlier this year, in May 2019, the Financial Monitoring Unit signed an MOU with the UK Financial Intelligence Unit.

Visit of Officials of Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK), Financial Intelligence Unit of Indonesia 17-19 December, 2019:

A senior level delegation comprising of officials from FIU Indonesia, on the invitation of Pakistan, visited Pakistan from 17-19 December, 2019. The purpose of the visit of Indonesia delegation to Pakistan was to seek guidance and learn from Indonesia's experiences in reforming Pakistan's

AML/CFT framework. During the visit to Pakistan, the Indonesian delegation interacted with key stakeholders responsible for AML/CFT related work. This visit provided an opportunity to highlight the actions taken by Pakistan for implementation of the FATF Action Plan and further strengthen relations between technical sides of both countries dealing with AML/CFT issues.

Pakistan's Egmont Group Membership:

FMU's Egmont Group is being processed by FMU's co-sponsors (FinCEN-USA and JAFIC-Japan). There were certain amendments required in the AML Act, 2010 which have been made by the Parliament in February 2020. It is expected that FMU would be part of Egmont Group by 2021.

(b) Observations on the implementation of the article

The country actively contributes to the development and strengthening of regional and international cooperation in the fight against money-laundering, in particular through its participation in the Asia/Pacific Group on Money Laundering, the Asset Recovery Inter-Agency Network for Asia and the Pacific (ARIN-AP) and the Asset Recovery Inter-Agency Network in West and Central Asia (ARIN-WCA).

(c) Successes and good practices

Pakistan actively contributes to the development and strengthening of regional and international cooperation in the fight against money-laundering, in particular through its participation in the Asia/Pacific Group on Money Laundering, the Asset Recovery Inter-Agency Network for Asia and the Pacific (ARIN-AP) and the Asset Recovery Inter-Agency Network in West and Central Asia (ARIN-WCA).

(d) Technical assistance needs

Capacity-building for the Financial Monitoring Unit, law enforcement authorities and reporting entities:

- Joint sessions of FMU CFT Supervisors (along with their reporting entities) and Law Enforcement Agencies (LEAs) to enhance the utilization of Financial Intelligence. Capacity Building programs for FMU analysts specifically for the analysis on emerging ML/TF Threats such as Virtual Asset, TBML, etc. Capacity building programs for the Analysts Course and training of FIU Analysts on FATF Recommendations and procedures. Attachment of analysts with other FIUs in order to learn good practices adopted in other countries.
- Technical assistance in terms of outreach to masses through advocacy and capacity building of Pakistan Information Commission's staff keeping in view best international practices will further enhance the effectiveness of the Pakistan Information commission.
- Training on tools and techniques for Transaction Monitoring; Misuse/exploitation of Payment Systems including New digital payment modes; Identifying proceeds of Environmental Crimes related activities and International best practices for: Identification of associates of PEPs, Identifying beneficial ownership, Practices in different regimes for detection of the use of informal channels i.e. Hawala Operators & Similar Service Providers

(HOSSP) and available Sanctions, Curbing smuggling related financial flows including cash, precious metals.

- Training on Organization Development & Innovation in Governance Models for bureaucratic operations and government secretariats. Organization diagnosis with specific reference to various diagnostic models, OD Diagnostics that can give insights to Management practices, HRD, HRM, Governance, Finance, Sustainability in Growth etc., Malcolm Baldrige business excellence model, SWOT assessment using Malcolm Baldrige scoring sheet, Identification of weaker arms of organization etc.
- HR process audit and identifying improvement areas with specific references to HR processes, Man-power Assessment (Qualitative & Quantitative Dimensions), Competence Mapping (Understanding competency mapping, Competency assessment, Competency Improvement – training aspects when and why?) Training and Developmental Needs Analysis & Assessment, (T.N.A), Performance Management System Facilitation. Uses & Implementation of People Capability Maturity model, Assessment & analysis of organization using People Capability Maturity model.
- Data Analysis & and Project Management.
- Awareness sessions for the corporate sector on Beneficial Ownership requirements.
- Capacity building sessions for the financial sector on ML/TF.

V. Asset recovery

Article 51. General provision

Article 51

1. *The return of assets pursuant to this chapter is a fundamental principle of this Convention, and States Parties shall afford one another the widest measure of cooperation and assistance in this regard.*

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

To comply the provisions of UNCAC specially provisions related to return of assets chapter V of UNCAC, the Islamic Republic of Pakistan has taken various steps in terms of promulgation of new laws, effective implementation of existing laws, signing of MoU's etc. Even various laws are at final stage of approval in Parliament. Summary of available laws in Islamic Republic of Pakistan relating to assets freezing // seizure/ confiscation and return to original owners is as follows:

ISLAMIC REPUBLIC OF PAKISTAN'S LEGAL REGIME

- Ø National Accountability Ordinance, 1999 (XVIII of 1999)
(<http://www.molaw.gov.pk/molaw/userfiles1/file/MOLAW/NABORDINANCE-1999.pdf>)
- Ø Federal Investigation Agency Act, 1974 (VIII of 1975)
(<http://www.fia.gov.pk/en/about.php>)
- Ø Prevention of Corruption Act, 1947 (II of 1947)
(https://ace.punjab.gov.pk/system/files/THE_PREVENTION_OF_CORRUPTION_ACT_1947.pdf)
- Ø Pakistan Penal Code, 1860 (XLV of 1860) (<http://www.fia.gov.pk/en/ppc.pdf>)
- Ø Anti-Money Laundering Act, 2010 (VII of 2010) (<http://www.fmu.gov.pk/docs/laws/Anti-Money%20Laundering%20Act%202010-As%20amended%20upto%20February%202016.pdf>)
- Ø Code of Criminal Procedure, 1898 (V of 1898)
(http://www.fmu.gov.pk/docs/laws/Code_of_criminal_procedure_1898.pdf)
- Ø Extradition Act 1972 (XXI of 1972)
- Ø United Nations Convention against Corruption (UNCAC)
- Ø Securities and Exchange Commission of Pakistan Act 1997
(<https://www.secp.gov.pk/document/secp-amendment-act-1997-for-your-information-and-record/?wpdmdl=17801>)
- Ø Securities and Exchange Commission of Pakistan Regulations
([https://www.psx.com.pk/psx/themes/psx/documents/legal-framework/SECP/regulations/secp-\(aml-and-cft\)-regu-2018/SecExg_LicensingOperations_Reg16.pdf](https://www.psx.com.pk/psx/themes/psx/documents/legal-framework/SECP/regulations/secp-(aml-and-cft)-regu-2018/SecExg_LicensingOperations_Reg16.pdf))&
(<https://www.secp.gov.pk/document/final-amendments-to-aml-regulations->

[2018/?wpdmdl=32416>](#))

Ø State Bank of Pakistan Act 1956 (<http://www.sbp.org.pk/about/act/SBP-Act.pdf>)

Ø State Bank of Pakistan Regulations (http://www.sbp.org.pk/l_frame/index2.asp)

Ø Mutual legal Assistance (Criminal Matters) Act, 2020

(<https://www.interior.gov.pk/index.php/international-cooperation>)

Moreover, following Memorandum of Understandings (MoUs) have been signed with various agencies of foreign jurisdictions for effective cooperation at international level in corruption matters.

- Memorandum of Understanding with Ministry of Supervision (Mos), Government of The People's Republic of China

- Memorandum of Understanding with Accounts chamber of Russian Federation,

- Memorandum of Understanding with Australian Federal Police (AFP)

Memorandum of Understandings (MoUs) have been initiated with relevant Anti-Corruption Agencies of following countries and are under process at various levels of approval

- Federal Bureau of Investigation of the United States of America

- Malaysian Anti-Corruption Commission (MACC)

- United Kingdom (UK)

- Ukraine

- Tajikistan.

Recently Federal Government has constituted a special task force under direct supervision of Prime Minister of Pakistan to identify offshore properties, assets, bank accounts illegally gotten through corruption. The task force also has mandate to engage in negotiation with other countries and their counterpart institution / organizations. An Assets Recovery Unit has been established to retrieve assets hidden overseas. The said task force has also tasked to suggest improvement in existing anti-corruption in Pakistan. Officials from the State Bank of Pakistan, Federal Board of Revenue ("FBR"), National Accountability Bureau ("NAB"), Federal Investigation Agency ("FIA") and intelligence agencies are amongst the new members of this newly constituted unit.

Examples of the implementation

NAB along with other law enforcement agencies are processing cases pertaining to corruption matters. Specific examples pertaining to each article are given against relevant articles.

(b) Observations on the implementation of the article

Asset recovery is mainly governed by the general provisions on international legal assistance of the Mutual Legal Assistance (Criminal Matters) Act, the Code of Criminal Procedure, the Anti-Money-Laundering Act and the National Accountability Ordinance (sect. 12 on freezing), in addition to relevant bilateral and multilateral treaties to which Pakistan is a party. Pakistan also issued non-binding mutual legal assistance guidelines in 2020 to assist foreign countries in understanding the steps to be followed when requesting formal or informal international cooperation from Pakistan and to provide a process for internal cooperation, with timelines for domestic responses from

relevant agencies.

There is no central asset recovery office in Pakistan, but agencies have separate units responsible for managing the maintenance and disposal of seized and confiscated property. Although the Secretary to the Ministry of Interior is the central authority for mutual legal assistance in general (sect. 2 (c) of the Mutual Legal Assistance (Criminal Matters) Act), NAB is the central authority for corruption-related mutual legal assistance (sect. 24 (2) of the Act). Requests can be sent directly to NAB or through any other agency or authority in Pakistan (sect. 5 (2) of the Act).

Pakistan can cooperate in the area of asset recovery on the basis of reciprocity and regardless of the existence of a treaty (sect. 3 (2) of the Act), with the exception of the enforcement of foreign confiscation orders (sect. 2 (i) of the Act).

In case the request is received from non-treaty country, the approval of the Federal government as per section 3(3) of the MLA Act is in principle required to render cooperation. In corruption related requests however, this approval is not required and the decision to cooperate or not rests solely with NAB (sec. 24(2), MLA Act).

The same set of measures and procedures that are available in domestic criminal proceedings, including those relating to the tracing, freezing, seizure and confiscation of property, are available in the context of such cooperation (sect. 1.4 (c) of the mutual legal assistance guidelines).

Although Pakistan has recovered and returned stolen assets in several cases, international cooperation and asset recovery mechanisms have not been fully utilized for the recovery of stolen assets.

It is recommended that Pakistan increase the use of international cooperation and asset recovery mechanisms to improve the recovery of stolen assets.

(c) Technical assistance needs

Capacity-building in the area of asset recovery, including investigative techniques.

- Training on evolving E-Money Institution, E-Wallets and related ML/TF challenges, ML/TF through virtual currencies and tracing techniques, Money Laundering Typologies and best practices of asset Recovery and Cybercrime involving virtual currencies as this area needs more instructions/ guidelines from Regulators' side. Cybercrime involving Payments, to banking sector in particular.
- Training on Virtual Assets' tracing and modern investigative tools & techniques.
- Specialized training on use of special investigative techniques for assets recovery.
- Training on beneficial ownership.

Article 52. Prevention and detection of transfers of proceeds of crime

Paragraph 1 of article 52

1. Without prejudice to article 14 of this Convention, each State Party shall take such measures as may be necessary, in accordance with its domestic law, to require financial institutions within its jurisdiction to verify the identity of customers, to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts and to conduct enhanced scrutiny of

accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions and their family members and close associates. Such enhanced scrutiny shall be reasonably designed to detect suspicious transactions for the purpose of reporting to competent authorities and should not be so construed as to discourage or prohibit financial institutions from doing business with any legitimate customer.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

1. Financial Monitoring Unit (FMU)

Under the Anti-Money Laundering (“AML”) Act, 2010 (Previously AML Ordinance 2007) an independent and autonomous financial intelligence unit known as Financial Monitoring Unit (“FMU”) was established in the year 2007. FMU is the financial intelligence unit in Pakistan responsible for receiving STRs/CTRs, analyzing them and disseminating financial intelligence based on analysis of the Suspicious Transaction Report (“STR”) and Cash Transaction Reports (“CTR”) received by it, concerning suspected proceeds of crime which are apparently linked to money laundering or laundering proceeds of crime for financing of terrorism.

Moreover, the details of Reporting Requirements as per AML Act, 2010 are as following:

Section 7 of the AML Act, 2010 requires all the Financial Institutions (defined under section 2(f) of the Act) to report two types of Reports to FMU which are:

1. Suspicious Transaction Reports (STRs)
2. Currency transaction Reports (CTRs)

“Section 7(1) lays down the requirements of STR Reporting as follows:

“Section 7. Procedure and manner of furnishing information by reporting entities.

(1) Every reporting entity shall file with FMU, to the extent and in the manner prescribed by the FMU, Report of Suspicious Transaction conducted or attempted by, at or through such reporting entity, if it knows, suspects or has reason to suspect that the transaction or a pattern of transactions of which the transaction is a part,

(a) involves funds derived from illegal activities or is intended or conducted in order to hide or disguise proceeds of crime;

(b) is designed to evade any requirements of this section

(c) has no apparent lawful purpose after examining the available facts, including the background and possible purpose of the transaction; or

(d) involves financing of terrorism, including fund collected, provided, used or meant for, or otherwise linked or related to, terrorism, terrorist acts or organizations and individuals concerned with terrorism: Provided that Suspicious Transaction Report shall be filed by the reporting entity with the FMU immediately after forming that suspicion.

(2) Any government agency, autonomous body, regulatory authority, domestic or foreign, may share intelligence or report their suspicions within the meaning of suspicious transaction report or CTR to FMU in normal course of their business and the protection provided under section 12 shall be available to such agency, body or authority.

(3) All CTRs shall, to the extent and in the manner prescribed by the FMU, be filed by the reporting entities with the FMU immediately, but not later than seven working days, after the respective

currency transaction.

(4) Every reporting entity shall keep and maintain all record related to Suspicious Transaction Reports and CTRs filed by it for a period of at least ten years after reporting of transaction under sub-sections (1), (2) and (3).

(5) The provisions of this section shall have effect notwithstanding any obligation as to secrecy or other restriction on the disclosure of information imposed by any other law or written document.

(6) Notwithstanding anything contained in any other law for the time being in force, any Suspicious Transaction Reports required to be submitted by any person or entity to any investigating or prosecuting agency shall, on the commencement of this Act, be solely and exclusively submitted to FMU to the exclusion of all others.

(7) Every reporting entity shall, in accordance with the regulations issued by relevant regulatory authority of that reporting entity, conduct customer due diligence and maintain record of transactions, account files and documents obtained through such diligence.”

Aforementioned Section 7 (7) of AMLA, 2010 binds each reporting entity to conduct customer due diligence as per the regulations issued by relevant regulatory authority of that reporting entity. Regulatory authorities (mainly SBP and SECP) have issued very comprehensive AML/CFT regulations for REs with details of CDD and EDD requirements related to PEPs, their associates and the identification of the beneficial owner of the accounts.

Moreover, the red flag indicators given in FMU AML Regulations 2015 provide guidance to REs related to identification of beneficial ownership and the transactions related to PEPs. REs are supposed to report suspicious transactions if the red flag indicators are met in these areas. However, it is clearly mentioned in FMU AML Regulations 2015 that each individual situation may not be sufficient to suggest that money laundering or a criminal activity is taking place hence, REs need to look for a combination of such situations which may be indicative of suspicious transaction. The aforementioned part of FMU AML Regulations 2015 protects the legitimate customers.

FMU also develops Red Flag Indicators which are available on FMU’s Website.

2. State Bank of Pakistan (“SBP”)

SBP Act 1956 gives powers to SBP to regulate monetary and credit system. SBP introduced basic requirements on Know Your Customer (KYC) in 1992 which were gradually strengthened in line with FATF Standards. Currently, these cover all essential aspects of preventive and detective-control measures as per risks involved including:

- Customer due diligence of bank customers,
- Correspondent banking for doing banking business across borders,
- Wire transfers requirements for sending and receiving funds,
- Automated systems for monitoring and reporting of STRs/CTRs
- Maintaining records for ten years
- Internal controls, policies, compliance, audit & training

SBP last updated its AML/CFT regulations in December 2019 which can be accessed via below link:

<http://www.sbp.org.pk/bprd/2019/C7-AML-CFT-Regulations.pdf>

Details of Regulations already provided in Article 14 of chapter II.

Further, in order to identify and verify customers and beneficial owners the Annexure-I of the above referred regulations require minimum documents to be obtained from various types of customers and provide examples or characteristics of Suspicious Transactions (Red Alerts) that may be a cause for increased scrutiny of transactions and relationships.

The banks are under obligation to identify potential AML/CFT risks in their respective areas of activities so as to foster reporting of Suspicious Transactions (STRs) to Financial Monitoring Unit (FMU).

These regulations take light from international standards and will help banks to manage related risks in a systematic way. The requirements include record retention for 10 years, Risk assessment of new products and services, obtain extended category of identity documents, enhancing controls on online transfers, expanding due diligence requirement on close associates or family members of Politically Exposed Persons (PEPs), clear responsibilities of respective institutions in wire transfers/correspondent banking, linking Customers' profiles with automated transaction monitoring systems. The regulations require Due Diligence at the time of hiring employees and require banks to provide adequate training to employees including Online Training and Tests. Moreover, stringent requirements for the accounts of NGOs/NPOs and Charities have been introduced.

However, new legislation has been introduced in the parliament with regards to money laundering. The Acts have not been implemented as yet.

3. The Securities and Exchange Commission of Pakistan (SECP)

The SECP regulated sector is required to apply Customer Due Diligence ("CDD") measures under regulation 6 of the SECP AML/CFT Regulations, 2018. The Link is provided below:

<file:///C:/Users/Admin/Downloads/AML-CFT%20Regulations%202018%20-%20Amended%20till%20Oct%2018-2.pdf>

6. Customer Due Diligence ("CDD"). - (1) No regulated person shall open or maintain anonymous account or an account in fictitious name.

(2) Regulated person shall apply CDD measures when establishing business relationship with a customer and when there is doubt about the veracity or adequacy of previously obtained customer identification data.

(3) Customer due diligence (CDD) in broader term include-

(a) identifying the customer or beneficial owner and verifying the customer's/beneficial owner's identity on the basis of documents, data or information obtained from customer and/or from reliable

and independent sources;

(b) understanding and, as appropriate, obtaining information on the purpose and intended nature of the business relationship; and

(c) monitoring of accounts/transactions on ongoing basis to ensure that the transactions being conducted are consistent with the regulated person knowledge of the customer, the customer's business and risk profile, including, the source of funds and, updating records and data/ information to take prompt action when there is material departure from usual and expected activity through regular matching with information already available with regulated person.

(4) Regulated person shall obtain such documents from different types of customers as provided in Annexure-I.

(5) Regulated person should verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or may complete verification after the establishment of the business relationship, provided that-

(a) this occurs as soon as reasonably practicable;

(b) this does not interrupt the normal conduct of business; and

(c) the ML/TF risks are effectively managed.

(5a) A regulated person shall not form business relationship with entities and/or individuals that are:

(a) designated under the United Nations Security Council Resolutions and adopted by the Government of Pakistan;

(b) proscribed under the Anti-Terrorism Act, 1997(XXVII of 1997); and

(c) associates/facilitators of persons mentioned in (a) and (b).”

(6) Regulated person shall adopt risk management procedures concerning the conditions under which a customer may utilize the business relationship prior to verification. The types of circumstances where the regulated person permits completion of verification after the establishment of the business relationship should be recorded in their CDD policies.

(7) For all persons, regulated person should determine whether the person is acting on behalf of a customer and should take reasonable steps to obtain-

(a) evidence to determine authority of such person to act on behalf of the customer, which shall be verified through documentary evidence including specimen signature of the customer;

(b) identification and verification of the person purporting to act on behalf of the customer;

(c) identification and verification of the customer;

(8) each customer shall be categorized as high or low risk, depending upon the outcome of the CDD process;

(9) regulated persons will maintain a list of all such customers/accounts where the business relationship was refused or needed to be closed on account of negative verification;

(10) regulated persons are required to apply CDD requirement to its existing customers on the basis of materiality and risk and should conduct due diligence on existing relations at appropriate times, taking into account whether and when CDD measures have previously been undertaken and the adequacy of data obtained;

(11) where regulated persons are not able to satisfactorily complete required CDD measures,

account shall not be opened or existing business relationship shall be terminated and consideration shall be given if the circumstances are suspicious so as to warrant the filing of an STR in relation to the customer.

(12) where regulated person forms a suspicion of money laundering or terrorist financing, and it reasonably believes that performing the CDD process will tip-off the customer, it may not pursue the CDD process, and instead should file an STR in accordance with regulation 14.

(13) Government entities accounts shall not be opened in the personal names of the government officials and account which is to be operated by an officer of the Federal or Provincial or Local Government in his/her official capacity, shall be opened only on production of a special resolution or authority from the concerned administrative department or ministry duly endorsed by the Ministry of Finance or Finance Department/Division of the concerned Government.

Explanation: - For the purposes of this regulation the expression “Government entities” includes a legal person owned or controlled by a Provincial or Federal Government under Federal, Provincial or local law.

In addition, the SECP regulated financial institutions are required to take enhanced due diligence measures against following entities under sub regulation 2 of regulation 9 of the SECP AML/CFT Regulations, 2018, reproduced below:

- (a) customers/ policy holders belonging to countries which are non-compliant with anti-money laundering regulations according to FATF;
- (b) such body corporate, partnerships, associations and legal arrangements including non-governmental organizations or not-for-profit organizations which receive donations; and
- (c) legal persons or arrangements with complex ownership structures.

Furthermore, under regulation 14A of the said regulations financial institutions are required to take following measures:

14A. Counter Measures against high-risk countries. (1) Regulated persons shall adopt counter measures, including but not limited to, enhance due diligence proportionate to the risk, to the business relationship and transactions with their customer belonging to such countries for which this is called upon by FATF and/or as notified by the Federal Government.

(2) The Commission, on the advice of the Federal Government regarding weakness in the AML/CFT systems of other countries, shall direct the Regulated Person to adopt counter measures in accordance with these regulations with the customers belonging to such countries.”

Moreover, ML/TF Warning Signs/ Red Flags are given in Annexure 3 to the AML/CFT guidelines, which can be accessed at <https://www.secp.gov.pk/laws/guidelines/>. Appropriate account opening, maintenance and record keeping is required for all accounts regardless of their ML/TF risk.

Furthermore, regulation 10 has additional requirements for PEPs:

10. Politically Exposed Persons (PEPs). (1) In relations to foreign and domestic PEPs, regulated person shall implement appropriate internal risk management systems, policies, procedures and controls to determine if any customer or a beneficial owner is a PEP.

(2) In case of foreign PEPs, regulated person shall perform EDD in accordance with sub-regulation (4) of regulation 9, in addition to other requirements of these regulations.

(3) In case of domestic PEPs, where business relationship poses higher risk, regulated person shall carry out EDD in accordance with sub-regulation (4) of regulation 9, in addition to other requirements of these regulations.

(4) The requirements of sub-regulations (2) and (3) are also applicable on family members and close associates of foreign and domestic PEPs.

14. Reporting of Transactions (STRs/CTRs). (1) Regulated person shall comply with the provisions of the AML Act and rules, regulations and directives issued there under for reporting suspicious transactions/currency transactions in the context of money laundering or financing of terrorism.

(2) Regulated person shall implement appropriate internal policies, procedures and controls for meeting their obligations under the AML Act.

(3) Regulated person shall pay special attention to all complex and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. The background and purpose of such transactions shall, as far as possible, be examined, the findings established in writing, and be available to assist the relevant authorities in inspection and investigation.

(4) The transactions, which are out of character, are inconsistent with the history, pattern, or normal operation of the account or are not commensurate with the level of income of a customer shall be viewed with suspicion, be properly investigated and referred to Compliance Officer for possible reporting to FMU under the AML Act.

(5) Regulated person should note that STRs, including attempted transactions, should be reported regardless of the amount of the transactions; and the CTRs should be reported for the transactions of rupees two million and above as per requirements of AML, Act.

(6) The basis of deciding whether an STR is being filed or not shall be documented and kept on record together with all internal findings and analysis done in relation to a suspicion irrespective of the fact that transaction is subsequently reported or not.

(7) The employees of regulated person are strictly prohibited to disclose the fact to the customer or any other quarter that a STR or related information is being or has been reported to any authority, except if required by law.

(8) Regulated person without disclosing the contents of STRs, shall intimate to the Commission on bi-annual basis the number of STRs reported to FMU and the regulated person shall ensure that status report (indicating No. of STRs only) shall reach the AML Department from the seven days of close of each half year.

State Bank of Pakistan (“SBP”)

SBP ensures the compliance of its instructions through off-site/ on-site examinations. The financial institutions are selected for on-site inspections through risk-based approach. Any violation identified during on-site inspection is documented and made part of the inspection report. On the basis of identified violations, dissuasive and proportionate enforcement actions are taken including imposition of monetary penalties. In order to bring more transparency and strengthen market discipline, SBP has started disclosure of significant enforcement actions through its website since July 2019. Detail of these enforcement action is accessible through link

<http://www.sbp.org.pk/BS/ef_.asp> while summary is given below:

Time Period	No. of Banks	Amount of Penalty (PKR in Million)
July 2019 to Jan 2020	17	1,583.30 million

Examples of the implementation

1. Financial Monitoring Unit (FMU)

FMU has received numerous STRs from banks, DFIs and Exchange Companies where the regulatory violations were observed and the same had been shared with SBP in the form of financial intelligence. After necessary analysis and further inquiry, the regulatory actions has been taken by SBP against the institutions.

Moreover, FMU has received numerous STRs from different reporting entities where the elements of Corruption, embezzlement of funds and other such offences were observed and same were shared with NAB in the form of Financial Intelligence after conducting thorough analysis. The financial intelligences shared with LEAs and/or regulators from 2015 till January, 2020 under the predicate offence of corruption or for regulatory violation are provided below:

S.#	Designated categories of offences as per FATF	Financial Intelligence						
		2015	2016	2017	2018	2019	2020	Total
1	Corruption and bribery/Unexplained Assets as per NAO/Cheating Public At large/unjustified High Turnover	21	22	36	35	32	1	147
2	Regulatory Violation/Regulatory Advice	17	14	72	36	40	5	184

2. Securities and Exchange Commission of Pakistan (“SECP”)

Relevant Inspection data of the regulated sector is as follows:

Inspection before FY 2019

Securities Brokers

Year	SECP On-Site Inspection for KYC/CDD	Number of Entities Selected under Joint

		Inspection Regulations, 2015 where KYC/ CDD was checked
2013	25	-
2014	25	-
2015	23	19
2016	15	51
2017	5	73

Insurance Sector

Year-wise Summary	Insurance Companies inspected
2013	5
2014	2
2015	2
2016	3
2017	6
2018	2
2019	27

NBFCs and Modarabas

Year	Number of Inspections*	Number of Thematic Reviews**
2013	9	-
2014	12	-
2015	9	-
2016	4	22
2017	7	-
2018	16	10
	14	10

* The inspection inter-alia covers compliance with AML/CFT Regulations

** Thematic review was specifically focused towards compliance with KYC/CDD

Inspection in 2019

Type of Institution	Ongoing Inspection in FY 19
---------------------	-----------------------------

Securities Brokers	2
NBFCs and Modarabas	4
Insurance Companies	4
NPOs	25

Type of Institution Inspections completed in FY 19	
Securities Brokers	30
NBFCs and Modarabas	10
Insurance Companies	6
NPOs	22

Penalties Imposed

Financial Institutions	FY 2014 to 2019
Securities Brokers	Rs.13.45 million
Insurance Companies	Rs. 3.56 million
NBFCs and Modarabas	Rs.3.2 million
Total	Rs. 20.21 million

Warnings Issued

Financial Institutions	FY 2014 to date
Securities Brokers	98
Insurance Companies	9
NBFCs and Modarabas	228
Total	335

3. State Bank of Pakistan (“SBP”)

In order to ensure effective, proportionate and dissuasive enforcement actions on violations of AML/CFT regulations, SBP has revised its penalty scale on AML/CFT areas. In this revision, apart from adequately covering the revised AML/CFT instructions issued by BPRD, vide letter dated October 18, 2018, risk level of each regulatory instructions has been reviewed and penalty amount have also been enhanced against various risk levels. Similarly, penalty on violation of UNSC list has been significantly enhanced resulting dissuasive penal action.

(b) Observations on the implementation of the article

Financial institutions and designated non-financial businesses and professions are subject to anti-money-laundering requirements, in accordance with the Anti-Money-Laundering Act and relevant regulations and guidelines issued by the supervisory authorities.

The requirements cover customer due diligence measures, including customer identification and verification (sect. 7A (2) (a) of the Anti-Money-Laundering Act); taking reasonable measures to identify and verify the identities of the beneficial owner or owners (sect. 7A (2) (b) of the Act); ongoing monitoring of business relationships (sect. 7A (2) (d) of the Act); record-keeping for five years from completion of the transaction or termination of the business relationship (sect. 7C of the Act; the State Bank of Pakistan regulations extend the record-keeping requirement to 10 years); and prompt reporting of suspicious transactions and attempted transactions to the Financial Monitoring Unit (sect. 7 (1) of the Act). The requirements also include assessing the risks of money-laundering and taking appropriate measures to manage those risks, and applying enhanced due diligence to high-risk customers, accounts and transactions, including accounts of current and former domestic and foreign politically exposed persons and of their family members and close associates (regulation 1 of the anti-money-laundering and countering the financing of terrorism regulations (2020) of the State Bank of Pakistan and regulation 8-24 of the SECP anti-money-laundering and countering the financing of terrorism regulations (2020)). Adequate sanctions for non-compliance are provided for under the Anti-Money-Laundering and Countering the Financing of Terrorism Sanctions Rules (2020).

AML/CFT regulatory authorities are authorised to impose sanctions against natural persons or reporting entities (S.7(I) and S.6A(2)(h), AMLA). A graduated range of monetary and administrative sanctions are available to authorities (Rule 4, AML/CFT Sanctions Rules 2020). Wide-ranging administrative sanctions include statements of warning and reprimand, imposing conditions, limitations, or restrictions on business and product offerings, issuance of mandatory directions to undertake actions, temporary or permanent prohibition of officeholders in a reporting entity, and license revocation/de-registration. Monetary sanctions of up to Rs 100 million per violation can also apply (Rule 6, Sanctions Rules).

Subparagraph 2 (a) of article 52

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

(a) Issue advisories regarding the types of natural or legal person to whose accounts financial institutions within its jurisdiction will be expected to apply enhanced scrutiny, the types of accounts and transactions to which to pay particular attention and appropriate account-opening, maintenance and record-keeping measures to take concerning such accounts; and

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

1. State Bank of Pakistan (“SBP”)

Besides above, SBP has also issued separate Guidelines on Risk Based Approach (“RBA”) <<http://www.sbp.org.pk/bprd/2019/C8-RBA-Guidelines.pdf>> and Banks/DFIs/MFBs have been

required to improve their RBA as per Guidelines. In addition, banks/DFIs/MFBs have been advised to obtain guidance from National Risk Assessment (“NRA”) document, international standards and best practices including relevant Recommendations, interpretative notes, best practices papers etc. of the FATF and Basel Core Principles. The guidelines require banks/DFIs to apply risk-based approach in their relationships and services keeping in view the factors like customer type, products, delivery channels and location. The concept of Customers Risk Profiling Based on scenario-based ranking of customers has been developed along with development of Red Alerts to trigger scrutiny of accounts and transactions.

Similarly, SBP has issued comprehensive guidelines for Exchange Companies

<http://www.sbp.org.pk/epd/2019/FECL19-Updated-Exchange-%20Companies-.pdf>

including CDD obligations, identification and verification provisions for customers and the beneficial owners, obtaining nature and purpose of transactions, enhanced due diligence in high-risk scenarios especially for PEPs, record keeping requirements for ten years, screening procedures for employee hiring, emphasis on training, appointment of Compliance Officer and adherence to UN resolutions as notified by Government of Pakistan, etc. Guidance has also been provided to Exchange Companies regarding web links to access AML law, AML regulations, STR/CTR reporting forms and guidance notes, Red Alerts and, contact numbers of officials of FMU etc.

SBP in its Regulation-1 (Customer Due Diligence - CDD) of AML/CFT Regulations, which requires banks/DFIs, on on-going basis, to perform such CDD/EDD measures as may be appropriate to its existing customers having regard to their own assessment of materiality and risk but without compromise on identity and verification requirements. Thus, ongoing CDD/EDD is an essential part of an effective AML/CFT regime.

Further SBP’s AML/CFT regulations are taken in light from international standards and will help banks to manage related risks in a systematic way. The requirements include record retention for 10 years, Risk assessment of new products and services, obtain extended category of identity documents, enhancing controls on online transfers, expanding due diligence requirement on close associates or family members of Politically Exposed Persons (PEPs), clear responsibilities of respective institutions in wire transfers/correspondent banking, linking Customer's profiles with automated transaction monitoring systems.

Moreover, stringent requirements for the accounts of NGOs/NPOs and Charities have been introduced.

2. Securities Exchange Commission of Pakistan (“SECP”)

The SECP regulated financial institutions are required to take enhanced due diligence measures against following entities under sub regulation 2 of regulation 9 of the SECP AML/CFT Regulations, 2018, reproduced below:

- (a) customers/ policy holders belonging to countries which are non-compliant with anti-money laundering regulations according to FATF;
- (b) such body corporate, partnerships, associations and legal arrangements including non-governmental organizations or not-for-profit organizations which receive donations; and
- (c) legal persons or arrangements with complex ownership structures.

Furthermore, under regulation 14A of the said regulations financial institutions are required to take following measures:

14A. Counter Measures against high-risk countries. (1) Regulated persons shall adopt counter measures, including but not limited to, enhance due diligence proportionate to the risk, to the business relationship and transactions with their customer belonging to such countries for which this is called upon by FATF and/or as notified by the Federal Government.

(2) The Commission, on the advice of the Federal Government regarding weakness in the AML/CFT systems of other countries, shall direct the Regulated Person to adopt counter measures in accordance with these regulations with the customers belonging to such countries.”

The Link is provided below:

<<file:///C:/Users/Admin/Downloads/AML-CFT%20Regulations%202018%20-%20Amended%20till%20Oct%2018-2.pdf>>

Moreover, ML/TF Warning Signs/ Red Flags are given in Annexure 3 to the AML/CFT guidelines. Appropriate account opening, maintenance and record keeping is required for all accounts regardless of their ML/TF risk.

The SECP has issued circular 16 of 2018 available at <<https://www.secp.gov.pk/laws/guidelines>>, or

(<<file:///C:/Users/Admin/Desktop/SCAL%20Filled/SECP%20Circular%20no.%2016%20of%202018-Register%20of%20Ultimate%20Beneficial%20Ownership.pdf>>) which requires all companies to maintain their beneficial ownership information at all times. Further, under Annexure 3 to the SECP AML/CFT guidelines FIs have been assisted in detecting ML/TF cases. In addition, SECP has conducted several training sessions for FIs to apprise them about their AML/CFT obligations and how to mitigate the risk of ML/TF.

The SECP issued SECP AML/CFT guidelines in September 2018 to supplement the regulations by elaborating on the general requirements of the legislation to help regulated persons in applying national AML/CFT measures and developing an effective AML/CFT risk assessment and compliance framework. Awareness and capacity building sessions on AML/CFT Regulations, 2018 and guidelines.

The SECP has devised a robust outreach program with respect to AML/CFT. 23 awareness sessions covering a wide range to topics including risk assessment, internal policies, procedures and controls, customer due diligence measures, record keeping procedures and UNSCR compliance have been conducted in Karachi, Lahore and Islamabad since the promulgation of the SECP AML/CFT Regulations, 2018.

The SECP has published Frequently Asked Questions (FAQs) on AML/CFT aiming to provide clear and concise answers to basic questions on AML/CFT Obligations under the SECP AML/CFT Regulations, 2018 and guidelines on Regulations.

3. Financial Monitoring Unit (“FMU”)

The red flag indicators given in FMU AML Regulations 2015 provide guidance to Reporting Entities related to identification of beneficial ownership and the transactions related to PEPs. REs are supposed to report suspicious transactions if the red flag indicators are met in these areas. However, it is clearly mentioned in FMU AML Regulations 2015 that each individual situation may not be sufficient to suggest that money laundering or a criminal activity is taking place hence, REs need to look for a combination of such situations which may be indicative of suspicious transaction. The aforementioned part of FMU AML Regulations 2015 protects the legitimate customers.

Red Flag Indicators/Typologies developed by FMU are available on FMU’s Website.

Examples of the implementation

Please refer to response of SECP on question 2 above.

(b) Observations on the implementation of the article

The AMLA includes general obligations for reporting entities (REs), including DNFBPs, to identify, assess, and understand their risks and implement a compliance programme to address those risks. In addition, Pakistan has issued a number of sector-specific regulations that provide more specific obligations on those sectors to assess and understand their risks and take enhanced measures where required.

Subparagraph 2 (b) of article 52

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

...

(b) Where appropriate, notify financial institutions within its jurisdiction, at the request of another State Party or on its own initiative, of the identity of particular natural or legal persons to whose accounts such institutions will be expected to apply enhanced scrutiny, in addition to those whom the financial institutions may otherwise identify.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

1.State Bank of Pakistan (“SBP”)

SBP has put in place effective regulatory and supervisory regime to strengthen the governance, risk management and compliance functions in banks/DFIs/MFB and money services businesses to prevent the use of banking channels for the purposes of Money Laundering (ML) and Terrorist Financing (TF). In this regard, SBP has put in place a comprehensive AML/CFT regulatory framework, which is fully aligned with International/ FATF’s standards and covers all essential aspects of preventive and control measures required therein including:

- Regulation-1: Customer Due Diligence (CDD)
- Regulation-2: Correspondent Banking
- Regulation-3: Wire Transfers/Fund Transfers
- Regulation-4: Reporting of Transactions (STRs/CTRs)
- Regulation-5: Record Keeping
- Regulation-6: Internal Controls, Policies, Compliance, Audit & Training

The AML/CFT regulations are reviewed from time to time and amendments are made as per changing requirements and global developments in this area. SBP last updated its AML/CFT regulations in December 2019 which can be accessed via below link:

<http://www.sbp.org.pk/bprd/2019/C7-AML-CFT-Regulations.pdf>

Details of Regulations already provided in Article 14 of chapter II.

At para 45 and 46 of R-1 of above regulations specifically stipulated for Customers from Jurisdictions identified by FATF that:

Banks/ DFIs shall apply enhanced due diligence, proportionate to the risks, to business relationships and transactions with natural and legal persons (including financial institutions) from jurisdictions for which this is called for by the FATF and apply countermeasures proportionate to the risks: (a) when called upon to do so by FATF, or (b) independently of any call by the FATF to do so.

2. Securities Exchange Commission of Pakistan (“SECP”)

The SECP regulated financial institutions are required to take enhanced due diligence measures against following entities under sub regulation 2 of regulation 9 of the SECP AML/CFT Regulations, 2018, reproduced below:

- (a) customers/ policyholders belonging to countries which are non-compliant with anti-money laundering regulations according to FATF;
- (b) such body corporate, partnerships, associations and legal arrangements including non-governmental organizations or not-for-profit organizations which receive donations; and
- (c) legal persons or arrangements with complex ownership structures.

Regulation 6 Customer Due Diligence (CDD) of AML Regulations 2018 require that no regulated person shall open or maintain any anonymous account. The relevant part of the said regulation is reproduced below:

- (1) No regulated person shall open or maintain anonymous account or an account in fictitious name.
- (2) Regulated person shall apply CDD measures when establishing business relationship with a customer and when there is doubt about the veracity or adequacy of previously obtained customer identification data.
- (3) Customer due diligence (CDD) in broader term include-
 - (a) identifying the customer or beneficial owner and verifying the customer’s/beneficial owner’s identity on the basis of documents, data or information obtained from customer and/or from reliable and independent sources;
 - (b) understanding and, as appropriate, obtaining information on the purpose and intended nature of the business relationship; and
 - (c) monitoring of accounts/transactions on ongoing basis to ensure that the transactions being conducted are consistent with the regulated person knowledge of the customer, the customer’s business and risk profile, including, the source of funds and, updating records and data/ information to take prompt action when there is material departure from usual and expected activity through regular matching with information already available with regulated person.

Furthermore, under regulation 14A of the said regulations financial institutions are required to take following measures:

14A. Counter Measures against high-risk countries. (1) Regulated persons shall adopt counter measures, including but not limited to, enhance due diligence proportionate to the risk, to the business relationship and transactions with their customer belonging to such countries for which this is called upon by FATF and/or as notified by the Federal Government.

(2) The Commission, on the advice of the Federal Government regarding weakness in the AML/CFT systems of other counties, shall direct the Regulated Person to adopt counter measures in accordance with these regulations with the customers belonging to such countries.”

The SECP has issued circular 16 of 2018, which requires all companies to maintain their beneficial ownership information at all times. Further, under Annexure 3 to the SECP AML/CFT guidelines FIs have been assisted in detecting ML/TF cases. In addition, the SECP has conducted several training sessions for FIs to apprise them about their AML/CFT obligations and how to mitigate the risk of ML/TF.

The Regulations require regulated persons not to form business relationship with the individuals/entities and their associates that are either, sanctioned under United Nations Security Council (UNSC) Resolutions adopted by Islamic Republic of Pakistan or proscribed under the Anti-Terrorism Act, 1997. The regulation 6(5a) is reproduced below:

(5a) A regulated person shall not form business relationship with entities and/or individuals that are:

- (a) designated under the United Nations Security Council Resolutions and adopted by the Government of Pakistan;
- (b) proscribed under the Anti-Terrorism Act, 1997(XXVII of 1997); and
- (c) associates/facilitators of persons mentioned in (a) and (b).

In addition to this, the SECP has also issued direction to all FIs vide SRO 55(I)/2020 available at <<https://www.secp.gov.pk/laws/directives>> for the implementation of TFS regime as required by the FATF Recommendation-6.

Examples of the implementation

Please refer to response of SECP on question 2 above.

In addition, A new online portal has been developed on SECP e-Services for immediate dissemination and reporting of Statutory Regulatory Orders (SROs) on designated and proscribed individuals and entities in order to effectively implement Targeted Financial Sanction (TFS) regime. The regulated persons are required to report their screening results and any match found within a specified timeline through this automated system. Image based step by step guidelines has been provided to RPs for filing responses on the portal.

The portal has led to an effective implementation of TFS regime as 98% of response filing from RPs has been observed. Further due to ongoing supervision and enforcement actions by SECP, improvements have been made as 93 Brokers, 25 NBFCs and 25 Insurance companies have now screening systems

(b) Observations on the implementation of the article

The State Bank of Pakistan and SECP have issued guidelines on a risk-based approach to countering money-laundering and the financing of terrorism, which allow the regulators to notify financial institutions, at the request of another State party or on their own initiative, of the identity of natural or legal persons to whose accounts such institutions are expected to apply enhanced scrutiny, in addition to those whom the financial institutions may identify (sect. B, para. 12 of the guidelines). The Financial Monitoring Unit has also issued guidance notes, including on suspicious transaction reporting, which provide guidelines on persons, accounts and transactions that must be given particular attention.

Countermeasure Rules have been issued pursuant to the s.4 of the AMLA 2020. Reporting entities are required to apply enhanced due diligence proportionate to the risk, to business relationships and transactions with natural and legal persons (including FIs) from countries for which this is called

for by the FATF (Countermeasures Rule 6).

Paragraph 3 of article 52

3. In the context of paragraph 2 (a) of this article, each State Party shall implement measures to ensure that its financial institutions maintain adequate records, over an appropriate period of time, of accounts and transactions involving the persons mentioned in paragraph 1 of this article, which should, as a minimum, contain information relating to the identity of the customer as well as, as far as possible, of the beneficial owner.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

1. Financial Monitoring Unit (FMU)

The Section 7 (4) and Section 7(7) AML Act, 2010 provides general provisions of Record Keeping. The same are reproduced below and may be accessed on below link:

<http://www.fmu.gov.pk/docs/laws/Anti-Money%20Laundering%20Act%202010-As%20amended%20upto%20May%202016.pdf>

7(4) Every reporting entity shall keep and maintain all record related to Suspicious Transaction Reports and CTRs filed by it for a period of at least five years after reporting of transaction under sub-sections (1), (2) and (3)

7C. Record keeping. Every reporting entity shall maintain a record of all transactions for a period of at least five years following the completion of the transaction, and records of account files, business correspondence, documents, of all records obtained through CDD and the results of any analysis undertaken for a period of at least five years following the termination of the business relationship.

Further, AML/CFT Regulations issued by SBP / SECP comprehensively covers this article i.e record keeping requirements. The specific Regulation is Regulation - 5: Record Keeping.

2. State Bank of Pakistan (“SBP”)

The Section 7 (4) and Section 7(C) AML Act, 2010 provides general provisions of Record Keeping. The same may be accessed on below link:

<http://www.fmu.gov.pk/docs/laws/Anti-Money%20Laundering%20Act%202010-As%20amended%20upto%20May%202016.pdf>

Further, AML/CFT Regulations issued by SBP comprehensively covers this article. The specific Regulation is Regulation - 5: Record Keeping Which stipulated following point:

- Minimum 10 years retention period
- Should be sufficient to permit reconstruction of individual transactions
- Records on identification, transactions (including analysis of suspicion) and business

correspondence

- The transactions records may be maintained in paper or electronic form or on microfilm, provided it is admissible as evidence in a court of law
- Supply of info to LEAs/Courts on timely basis

Details already provided at Article 14 of chapter II and can be viewed on below link:

<http://www.sbp.org.pk/bprd/2019/C7-AML-CFT-Regulations.pdf>

Further SBP in its circular letter No. 18 of 2018 <http://www.sbp.org.pk/bprd/2018/CL18.htm> advised to Banks/DFIs to refer the SECP Circular No. 16 of 2018 dated August 29, 2018 (<https://www.secp.gov.pk/laws/circulars/>) through which the Commission has directed all companies to enhance their efforts to obtain and maintain up-to-date information relating to their ultimate beneficial owners, i.e. natural persons or individuals who ultimately own or control the company. The banks/ DFIs may seek such ultimate beneficial ownership information from their relevant customers during CDD process.

Securities Exchange Commission of Pakistan (“SECP”)

The regulated person is required to maintain, for at least 5 years after termination, all information obtained in the context of CDD and records on transactions. Regulation 15 of the SECP AML/CFT Regulations, 2018 is stated below:

15. Record Keeping. (1) Regulated person shall maintain all necessary records on transactions, both domestic and international, including the results of any analysis undertaken (e.g. inquiries to establish the background and purpose of complex, unusual large transactions) for a minimum period of five years from completion of the transaction:

Provided that regulated person may retain those records for longer period where transactions, customers or accounts involve litigation or it is required by court or other competent authority.

(2) The records shall be sufficient to permit reconstruction of individual transactions including the nature and date of the transaction, the type and amount of currency involved and the type and identifying number of any account involved in the transactions so as to provide, when necessary, evidence for prosecution of criminal activity and the transactions records may be maintained in paper or electronic form, provided it is admissible as evidence in a court of law.

(3) The records of identification data obtained through CDD process like copies of identification documents, account opening forms, Know Your Customer forms, verification documents, other documents and result of any analysis along with records of account files and business correspondence, shall be maintained for a minimum period of five years after termination of the business relationship.

(4) Regulated person shall ensure, to timely make available, all CDD and transaction records to the Commission, FMU and law enforcement agencies whenever required

Further,

12. Reliance on Third Parties. (1) Regulated person may rely on a third party to conduct CDD on its behalf provided that the regulated person shall-

(a) obtain immediately, the necessary information relating to identification of the customer,

identification of the beneficial owner and/or the nature of business of the customer;

(b) take steps to satisfy itself that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay;

(c) satisfy itself that the third party is regulated, and supervised or monitored for, and has measures in place for compliance with, CDD and record-keeping requirements in line with these regulations; and

(d) maintain data/ information confidentiality and non-disclosure agreement with the third party.

(2) When determining in which countries the third party that meets the conditions can be based, regulated person should have regard to information available on the level of country risk.

(3) For regulated person that rely on a third party that is part of the same financial group:

(a) the group should apply CDD and record-keeping requirements and programmes against money laundering and terrorist financing, in accordance with these regulations; and

(b) any higher country risk should be adequately mitigated by the group's AML/CFT policies.

(c) the implementation of those CDD and record-keeping requirements and AML/CFT programmes shall be supervised at a group level by a competent authority²¹.

(4) The regulated person shall be responsible for ongoing monitoring of its customers and notwithstanding the reliance upon a third party, the regulated person shall ultimately remain responsible for its AML/CFT obligations, including generating STRs and shall carry out ongoing monitoring of such customer itself.

Under sub regulation 3 of regulation 15 of the SECP AML/CFT Regulations, 2018 Financial Institutions are required to hold records for at least 5 years.

Regulation 15 of the SECP AML/CFT Regulations, 2018 pertaining to record keeping is reproduced below:

15. Record Keeping. (1) Regulated person shall maintain all necessary records on transactions, both domestic and international, including the results of any analysis undertaken (e.g. inquiries to establish the background and purpose of complex, unusual large transactions) for a minimum period of five years from completion of the transaction:

Provided that regulated person may retain those records for longer period where transactions, customers or accounts involve litigation or it is required by court or other competent authority.

(2) The records shall be sufficient to permit reconstruction of individual transactions including the nature and date of the transaction, the type and amount of currency involved and the type and identifying number of any account involved in the transactions so as to provide, when necessary, evidence for prosecution of criminal activity and the transactions records may be maintained in paper or electronic form, provided it is admissible as evidence in a court of law.

(3) The records of identification data obtained through CDD process like copies of identification documents, account opening forms, Know Your Customer forms, verification documents, other documents and result of any analysis along with records of account files and business correspondence, shall be maintained for a minimum period of five years after termination of the business relationship.

(4) Regulated person shall ensure, to timely make available, all CDD and transaction records to the Commission, FMU and law enforcement agencies whenever required.

Examples of the implementation

As per regulations issued by SBP and SECP all financial institutions are bound to keep record for a specific period.

(b) Observations on the implementation of the article

Section 7(C) of the AMLA requires reporting entities to maintain a record of all transactions for a period of at least five years following the completion of the transaction, and records of account files, business correspondence, documents, of all records obtained through CDD and the results of any analysis undertaken for a period of at least five years following the termination of the business relationship. Some SBP and SECP regulations extend the record keeping requirement to 10 years.

Separate regulations provide for the length of time, 10 years as per SBP and SECP Regulations.

- Banks and DFIs, para 5(1) of the AML-CFT Regulations 2017, includes 10 years as a length of time.
- MFB are required to maintain all necessary records, both domestics and international for 10 years (M – 2 of the Prudential Regulation 2017).
- Exchange Companies are required to maintain all necessary records of transactions including those related to remittance transactions (both Inward and Outward) for 10 years (Chapter 3 s (12) and Chapter 6 s (9) of the Exchange Companies Manual 2017 of SBP).
- Regulated persons (securities brokers, commodities broker, insurers, takaful operators, non-bank financial companies, and modarabas) are required to maintain all necessary records of transactions both domestics and international for 5 years (Regulation 15(1) of SECP AML/CFT Regulation 2018).

Paragraph 4 of article 52

4. With the aim of preventing and detecting transfers of proceeds of offences established in accordance with this Convention, each State Party shall implement appropriate and effective measures to prevent, with the help of its regulatory and oversight bodies, the establishment of banks that have no physical presence and that are not affiliated with a regulated financial group. Moreover, States Parties may consider requiring their financial institutions to refuse to enter into or continue a correspondent banking relationship with such institutions and to guard against establishing relations with foreign financial institutions that permit their accounts to be used by banks that have no physical presence and that are not affiliated with a regulated financial group.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

1. State Bank of Pakistan (“SBP”)

SBP has put in place effective regulatory and supervisory regime to strengthen the governance, risk management and compliance functions in banks/DFIs/MFB and money services businesses to prevent the use of banking channels for the purposes of Money Laundering (ML) and Terrorist Financing (TF). In this regard, SBP has put in place a comprehensive AML/CFT regulatory framework, which is fully aligned with International/ FATF’s standards and covers all essential

aspects of preventive and control measures required therein including:

- u Regulation-1: Customer Due Diligence (CDD)
- u Regulation-2: Correspondent Banking
- u Regulation-3: Wire Transfers/Fund Transfers
- u Regulation-4: Reporting of Transactions (STRs/CTRs)
- u Regulation-5: Record Keeping
- u Regulation-6: Internal Controls, Policies, Compliance, Audit & Training

Details can be viewed on below link:

<http://www.sbp.org.pk/bprd/2019/C7-AML-CFT-Regulations.pdf>

The regulation R-2 cover all the aspect of Correspondent Banking, following areas covered in the R-2:

- u Gather sufficient information on respondent banks
- u Determine respondent bank's level of supervision
- u Assess respondent bank in the context of sanctions/embargos and Advisories about risk
- u Clearly understand and document the respective AML/CFT responsibilities of each bank
- u Obtaining senior management approvals
- u Relationship with banks of weak KYC/CDD standards
- u Prohibition of dealing with *shell banks*
- u Obligations of Pakistani banks availing correspondent banking services abroad.

2. Securities Exchange Commission of Pakistan ("SECP")

Relevant provision of Regulation 17, sub regulation 5 of AML Regulations, 2018 is reproduced below for ease of reference:

(5) A regulated person shall also take appropriate measures when establishing a Correspondent Relationship, to satisfy itself that its respondent financial institutions do not permit their accounts to be used by shell financial institutions.

Further, in Islamic Republic of Pakistan any legal entity has to establish a company registered with the SECP and require physical presence as such no shell bank can be established in Islamic Republic of Pakistan.

Examples of the implementation

Securities Exchange Commission of Pakistan ("SECP")

Please see response at question 2 above

(b) Observations on the implementation of the article

The procedures for the establishment of banks prohibit the establishment of shell banks (sects. 5 and 27 of the Banking Companies Ordinance (1962)).

Although there is no explicit prohibition in legislation or regulations on the establishment or continued operation of shell banks in Pakistan, in practice all banks legally established in Pakistan require approval to be formed and to undertake business and have a physical place of business operations (s 5-c and 5-d of the Banking Companies Ordinance 1962).

Regulation 2 of the anti-money-laundering and countering the financing of terrorism regulations (2020) of the State Bank of Pakistan prohibits banks from entering into or continuing correspondent banking relations with a shell bank. The regulation also requires banks to satisfy themselves that their respondent banks do not permit their accounts to be used by a shell bank.

Paragraph 5 of article 52

5. Each State Party shall consider establishing, in accordance with its domestic law, effective financial disclosure systems for appropriate public officials and shall provide for appropriate sanctions for non-compliance. Each State Party shall also consider taking such measures as may be necessary to permit its competent authorities to share that information with the competent authorities in other States Parties when necessary to investigate, claim and recover proceeds of offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

Each public official of Basic Pay Scale (“BPS”) 1 - 22 is obligated to declare under the Conduct Rules, 1964 all assets and incomes (including all assets owned by the officer & his family members) on annual basis.

As per section 12 of The Government Servants (Conduct) Rules, 1964

“Declaration of property. -

(1) Every Government servant shall, at the time of entering Government service, make a declaration to the Government, through the usual channel, of all immovable and movable properties including shares, certificates, securities, insurance policies and jewellery having a total value of **[Rs.50,000 (fifty thousand rupees)] or more belonging to or held by him or a member of his family and such declaration shall,

(a) state the district within which the property is situated.

(b) show separately individual items of jewellery exceeding **[Rs. 50,000 (fifty thousand rupees)] in value, and

(c) give such further information as the Government may, by general or special order, require.

(2) Every Government servant shall submit to the Government, through usual channel, an annual return of assets in the month of December showing any increase or decrease of property as shown

in the declaration under sub-rule or, as the case may be, the last annual return.”

As per section 13 of The Government Servants (Conduct) Rules, 1964

“Disclosure of assets, immovable, movable and liquid. -

A Government servant shall, as and when he is so required by Government by a general or special order, furnish information as to his assets disclosing liquid assets and all other properties, immovable and movable, including shares, certificates, insurance policies, jewellery *[and expenses during any period specified by such order in the form specified therein].”

1. Securities Exchange Commission of Pakistan (“SECP”)

As per clause 5.7 of chapter 5 of the SECP’s HR Manual, all employees of the Commission are required to submit the declaration/statement pertaining to that financial year to the Secretary to the Commission. The said clause is reproduced below:

“Clause 5.7 Declaration of Assets/ Income Tax Return

i. All employees shall be required to submit the following declaration/statement/documents pertaining to that financial year by the 31st of December of each year to the Secretary to the Commission in a sealed envelope.

a. Copy of income tax return and wealth statement as submitted to FBR.

b. CDC account statement (for those employees who hold shares)

c. Employees who do not file income tax return because they do not have taxable income shall submit a declaration of assets valuing Rupees Fifty thousand (Rs. 50,000 /-) or more with the Commission along with a reconciliation of purchases and sales of such assets on the prescribed declaration of Assets form.

ii. A declaration will also be required if an investment is made on behalf of any of the dependent family members.

iii. In case of any specific reason that is to be recorded in writing by the Commission, Commission may constitute a monitoring committee to review any of the submitted declaration of Assets and report its findings.

Further, in case of any investigation carried out against any employee, such information is shared with other State parties/ law enforcement agencies to recover proceeds.

2.

Election Commission of Pakistan (ECP)

Election Commission of Pakistan regulates elections in Pakistan through “The Elections Act 2017” available on <<https://www.ecp.gov.pk/Documents/laws2017/Election%20Act%202017.pdf>>.

In chapter VIII “Election Expenses And Statement Of Assets And Liabilities” section 137 and 138 are relevant to declaration of assets and liabilities which are reproduced as under:

137. Submission of statement of assets and liabilities.

(1) Every Member of an Assembly and Senate shall submit to the Commission, on or before 31st December each year, a copy of his statement of assets and liabilities including assets and liabilities of his spouse and dependent children as on the preceding thirtieth day of June on Form B.

(2) The Commission, on the first day of January each year through a press release, shall publish the names of Members who failed to submit the requisite statement of assets and liabilities within the period specified under subsection (1).

(3) The Commission shall, on the sixteenth day of January, by an order suspend the membership of a Member of an Assembly and Senate who fails to submit the statement of assets and liabilities by the fifteenth day of January and such Member shall cease to function till he files the statement of assets and liabilities.

(4) Where a Member submits the statement of assets and liabilities under this section which is found to be false in material particulars, he may, within one hundred and twenty days from the date submission of the statement, be proceeded against for committing the offence of corrupt practice.

138. Publication of statement of assets and liabilities. The Commission shall publish in the official Gazette the statements of assets and liabilities received by it under section 137 and any person may obtain copies of a statement of assets and liabilities on payment of prescribed fee.

In chapter 10 of the Elections Act 2017 i.e “Offences, Penalties and Procedures” Corrupt Practice has been defined in article 167, whereas Article 173 defines the meaning of Making or publishing a false statement or declaration. Article 174 deals with Penalty for corrupt practice. Relevant sections are reproduced as under:

Article 167. Corrupt practice. A person is guilty of the offence of corrupt practice if he-

(a) is guilty of bribery, personation, exercising undue influence, capturing of polling station or polling booth, tampering with papers, and making or publishing a false statement or declaration;

(b) calls upon or persuades any person to vote, or to refrain from voting, for any candidate on the ground that he belongs to a particular religion, province, community, race, caste, bradari, sect or tribe

(c) causes or attempts to cause any person present and waiting to vote at the polling station to depart without voting; or

(d) contravenes the provisions of section 132.

173. Making or publishing a false statement or declaration. A person is guilty of making or publishing a false statement or declaration if he makes or publishes a false statement or submits false or incorrect declaration in any material particular-

(a) concerning the personal character of a candidate or any of his relations calculated to adversely affect the election of such candidate or for the purpose of promoting or procuring the election of another candidate, unless he proves that he had reasonable grounds for believing and did believe, the statement to be true; or

(b) relating to the symbol of a candidate whether or not such symbol has been allocated to such candidate; or

(c) regarding the withdrawal of a candidate; or

(d) in respect of statement of assets and liabilities or any liability with regard to payment of loans, taxes, government dues and utility expenses.

174. Penalty for corrupt practice. Any person guilty of the offence of corrupt practice shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to one hundred thousand rupees or with both.

Election Commission of Pakistan has made it mandatory for all the contesting candidates to declare all assets held at the time of election. The winning candidates have to declare their assets each year on 30th June. For this purpose Election Commission of Pakistan has devised a form known as “Form B” available on

<https://www.ecp.gov.pk/documents/confidentialwing2019/Statement%20of%20Assets%20and%20Liabilities%20Form-B.pdf>.

Election Commission of Pakistan on the first day of January each year through a press release publish the names of Members who failed to submit the requisite statement of assets and liabilities.

If members still failed to submit the statement of assets and liabilities till 15th January, the Election Commission of Pakistan, on the sixteenth day of January, by an order suspend the membership of a Member of an Assembly and Senate. The member whose, membership has been suspended he will cease to function till he files the statement of assets and liabilities.

In case a Member submits the statement of assets and liabilities under section 137, and found to be false in material particulars, he may be proceeded against for committing the offence of corrupt practice.

Examples of the implementation

SECP

As required under clause 5.7, all employees of the SECP submit returns each year

FMU:

As per Regulation 64 of FMU’s Staff Service Regulations 2016, all FMU employees are required to declare their assets at the year end. The same para is reproduced below:

64. Declaration of assets. - All employees (Officers & Staff of FMU) shall be required to submit the following declaration/statement/documents as of 30th of June of each year latest by the 31st of December of each year to the FMU in a sealed envelope.

64.1 A statement of all assets (movable and immovable including cash, jewelry, securities etc.) held by him or by any member of his family; and

64.2 A statement of borrowings by him and by any member of his family from any commercial bank or financial institution.

(b) Observations on the implementation of the article

Pakistan has established a paper-based financial disclosure system for public officials.

Members of the Parliament and civil servants, including members of the judiciary, are required to declare their assets and liabilities, whether held domestically or abroad, as well as those of any dependent family members living with them, according to the Representation of People Act (1976) and the Government Servants (Conduct) Rules, respectively. As ministers in Pakistan are members

of the Parliament, they are covered by the asset declaration obligations; however, the obligations do not extend to the Head of State. Asset declarations must be submitted upon taking office or on first appointment, and then annually (by 30 June), but not at the end of service.

Assets to be declared include: (i) immovable properties, such as houses, commercial businesses, a business capital in Pakistan and abroad; (ii) movable assets, such as vehicles, machinery, jewellery, and furniture; and (iii) cash in bank drafts, bank accounts, and remittances. Information on loans and debts should also be disclosed as well as on investments, stocks and shares. There are standardised forms to be filled by members of the Parliament (Form XXI Statement of Assets and Liabilities), Senators (Form XI Statement of Assets and Liabilities), and civil servants (Declaration of Income and Assets Form). Digital currencies are prohibited in Pakistan and hence not covered by asset declaration requirements.

The Election Commission of Pakistan is responsible for receiving asset declarations from members of the Parliament. With regard to civil servants, there is no single, independent agency that handles asset declarations. Respective ministries and government agencies are therefore responsible for receiving declarations and enforcing the applicable requirements, as described above.

The Representation of People Act and the Government Servants (Conduct) Rules do not provide for a clear examination or verification process. In practice, verification is carried out in cases where there is a reason to suspect that the information provided is inaccurate or false, or in cases of criminal investigation.

The failure by members of the Parliament to comply with asset disclosure rules (namely, late filing or non-filing) can lead to administrative sanctions, such as suspension. Criminal sanctions, including fines and up to five years of imprisonment, can also be applied if the information declared is false. Civil servants, on the other hand, may face administrative sanctions and non-promotion to higher grades for non-compliance.

Asset declarations submitted by members of the Parliament and senators are published on the website of the Election Commission of Pakistan, whereas those submitted by civil servants are confidential but can be shared with foreign authorities upon request.

It is recommended that Pakistan consider reviewing and strengthening its financial disclosure system to make it more efficient and effective, including by moving from a paper-based to a digitalized system; extending the scope of the system to spouses in all cases; providing for a clear and adequate verification process, in particular for declarations that are not made publicly available, such as those of civil servants; and requiring the submission of financial disclosures at the end of service.

Paragraph 6 of article 52

6. Each State Party shall consider taking such measures as may be necessary, in accordance with its domestic law, to require appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts. Such measures shall also provide for appropriate sanctions for non-compliance.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

1. Establishment Division

i. The permission to carry out consultancy work is accorded by the Prime Minister to the ex-Government Servant under Ex-Government Servants (Employment with Foreign Governments) Prohibition Act, 1966.

ii. As per Rule 12 of Government Servants (Conduct) Rules, 1964 regarding submission of assets, the Government Servant at the time of joining of their service have to declare their assets of all immovable and moveable properties including shares, certificates, securities, insurance policies and Jewellery having a total value of 50,000/- or more and liabilities belonging to or held by him or member of his family.

iii. After that on annual basis i.e. ending on 30th June, showing any increase or decrease of property as shown in previous annual declaration through usual channel.

iv. According to the sub-rule (3) of Rule 12, declaration of assets proforma shall be opened in the concerned section and entered into database.

v. Establishment Division maintains record of declaration of assets of PAS, PSP, Secretariat Group and OMG.

vi. The D.As of the above officers can be scrutinized in the event of report of any corruption against the officer. These are being provided to Investigation Agencies, Courts and Inquiry officers on case-to-case basis.

vii. The objective/purpose to introduce the system of declaration of assets is to prevent or combat corruption, to promote integrity and to increase transparency in public affairs.

(b) Observations on the implementation of the article

The asset declaration form covers financial accounts in a foreign country in which a public official has an interest or over which they have a signature or other authority (serial 11 of the form "Assets held as Attorney").

Article 53. Measures for direct recovery of property

Subparagraph (a) of article 53

Each State Party shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit another State Party to initiate civil action in its courts to establish title to or ownership of property acquired through the commission of an offence established in accordance with this Convention;

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

Code of Civil Procedures (1908)

Article 84

(1) A foreign State may sue in any Court [in the Province]:

Provided that such State has been recognized by the [Central Government]:

Provided, also, that the object of the suit is to enforce a private right vested in the head of such State or in any officer of such State in his public capacity.

(2) Every Court shall take judicial notice of the fact that a foreign State has or has not been recognized by the Central Government].

Article 16

Subject to the pecuniary or other limitations prescribed by any law, suits;

(a) for the recovery of immovable property- with or without rent or profits;

(b) for the partition of Immovable property;

(c) for foreclosure, sale or redemption in the case of a mortgage of or charge upon immovable property,

(d) for the determination of any other right to or interest in immovable property;

(e) for compensation for wrong to immovable property,

(f) for the recovery of movable property actually under distraint or attachment;

shall be instituted in the Court within the local limits of whose jurisdiction the property is situated, or, in the case of suits referred to in- clause (c), at, at the place where the cause of action has wholly or partly arisen:

Provided that a suit to obtain relief respecting, or compensation for wrong to, immovable property held by or on behalf of the defendant may, where the relief sought can be entirely obtained through his personal obedience, be instituted either in the Court within the local limits of whose jurisdiction the property is situated or, in the case of suits referred to in clause (c), at the place where the cause of action has wholly or partly arisen or in the Court within the local limits of whose jurisdiction the defendant actually and voluntarily resides, or carries on business, or personally works for gain.

Explanation - In this section "property" means property situated in Pakistan.

(b) Observations on the implementation of the article

The Code of Civil Procedure (1908) explicitly grants foreign States the right to initiate civil action in any court in Pakistan, provided that such State has been recognized by the Government (sect. 84). The Code also provides the legal basis for a person, whether legal or natural, domestic or foreign, to initiate action to establish ownership of property (sect. 16). These provisions also apply to foreign States.

(c) Successes and good practices

Pakistan explicitly grants foreign States the right to initiate civil action in its courts.

Subparagraph (b) of article 53

Each State Party shall, in accordance with its domestic law: ...

(b) Take such measures as may be necessary to permit its courts to order those who have committed offences established in accordance with this Convention to pay compensation or damages to another State Party that has been harmed by such offences; and

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

Code of Civil Procedures (1908)

Article 19

Where a suit is for compensation for wrong done to the person or to movable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the suit may be instituted -at the option of the plaintiff in either of the said Courts.

(b) Observations on the implementation of the article

The Code of Civil Procedure (1908) explicitly grants foreign States the right to initiate civil action in any court in Pakistan, provided that such State has been recognized by the Government (sect. 84). The Code also provides the legal basis for a person, whether legal or natural, domestic or foreign, to initiate action to claim compensation for damages (sect. 19) in the domestic courts. These provisions also apply to foreign States.

(c) Successes and good practices

Pakistan explicitly grants foreign States the right to initiate civil action in its courts.

Subparagraph (c) of article 53

Each State Party shall, in accordance with its domestic law: ...

(c) Take such measures as may be necessary to permit its courts or competent authorities, when having to decide on confiscation, to recognize another State Party's claim as a legitimate owner of property acquired through the commission of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

Code of Criminal Procedure 1898 (CrPC)

88. Attachment of property of person absconding.

(1) The Court issuing a proclamation under section 87 may at any time order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person.

(2) Such order shall authorize the attachment of any property belonging to such person within the district in which it is made; and it shall authorize the attachment of any property belonging to such person without such district when endorsed by the [Sessions Judge] within whose district such property is situate.

(3) If the property ordered to be attached is a debt or other movable property, the attachment under this section shall be made-

(a) by seizure; or

(b) by the appointment of a receiver; or

(c) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or

(d) by all or any two of such methods, as the Court thinks fit.

(4) If the property ordered to be attached is immovable, the attachment under this section shall, in the case of land paying revenue to [the Provincial Government], be made through the [District Officer (Revenue)] in which the land is situate, and in all other cases __

(e) by taking possession ; or

(f) by the appointment of a receiver; or

(g) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf; or

(h) by all or any two of such methods, as the Court thinks fit.

(5) If the property ordered to be attached consists of livestock or is of a perishable nature, the Court may, if it thinks expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.

(6) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under [Order XL of the Code of Civil Procedure, 1908 (Act V of 1908)].

(6A) If any claim is preferred to, or objection made to the attachment of, any property attached under this section within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under this section, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part: Provided that any claim preferred or objection made within the period allowed by this subsection may, in the event of the death of the claimant or objector, be continued by his legal representative.

(6B) Claims or objections under subsection (6A) may be preferred or made in the Court by which the order of attachment is issued or, if the claim or objection is in respect of property attached under an order endorsed by a [Sessions Judge] 4* * * in accordance with the provisions of subsection (2), in the Court of such Magistrate.

(6C) Every such claim or objection shall be inquired into by the Court [or Magistrate] in which it is preferred or made [.]

(6D) Any person whose claim or objection has been disallowed in whole or in part by an order under subsection (6A) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the property in dispute; but subject to the result of such suit, if any, the order shall be conclusive.

(6E) If the proclaimed person appears within the time specified in the proclamation, the Court shall

make an order releasing the property from the attachment.]

(7) If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of 5 [the Provincial Government], but it shall not be sold until the expiration of six months from the date of the attachment [and until any claim preferred or objection made under subsection (6A) has been disposed of under that subsection], unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner, in either of which cases the Court may cause it to be sold whenever it thinks fit.

89. Restoration of attached property.

If, within two years from the date of the attachment, any person whose property is or has been at the disposal of [the Provincial Government], under subsection (7) of section 88, appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the net proceeds of the sale, or, if part only thereof has been sold, the net proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

517. Order for disposal of property regarding which offence committed

(1) When an inquiry or a trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal by destruction, confiscation, or delivery to any person claiming to be entitled to possession thereof or otherwise of any property or document produced before it or in its custody or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(2) When a High Court or Court of Sessions makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by the [District Officer (Revenue)]

(3) When an order is made under this section such order shall not, except where the property is livestock or subject to speedy and natural decay, and save as provided by subsection (4), be carried out for one month, or, when an appeal is presented, until such appeal has been disposed of.

(4) Nothing in this section shall be deemed to prohibit any Court from delivering any property under the provisions of sub-section (1) to any person claiming to be entitled to the possession thereof, on his executing a bond with or without sureties to the satisfaction of the Court; engaging to restore such property to the Court if the order made under this section is modified or set aside on appeal.

Explanation: In this section the term "property" includes in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

522. Power to restore possession of immovable property

(1) When ever a person is convicted of an offence of cheating or forgery or of an offence attended by criminal force or show of force or by criminal intimidation and it appears to the Court that by such cheating forgery, force of Show of force of criminal intimidation any person has been dispossessed of any immovable, property the Court may, if it thinks fit when convicting such person or at any time within one month from the date of the conviction order the person dispossessed] to

be restored to the possession of the same, whether such property is in the possession or under the control of the person convicted or of any other person to Whom it may have been transferred for any consideration or Otherwise.

(2) No such order shall prejudice any right or interest to or in such immovable property which any person may be able to establish in a civil suit.

(3) An order under this section may be made by any Court of appeal, confirmation, reference or revision.

522-A. Power to restore possession of movable property

(1) Whenever a person convicted of an offence of criminal misappropriation, of property or criminal breach of trust or cheating or forgery and it appears to the Court that, by such misappropriation, breach of trust, cheating or forgery, any person has been dispossessed or otherwise deprived of any movable property, the Court may, if thinks fit, when convicting such person of at any time within the month from the date of the conviction, order the person dispossessed or deprived of the property, where such property can be identified, to be restored to the possession of such property, whether such property is in the possession or under the control of the person convicted or of any other person to whom it may have been transferred for any consideration or otherwise.

(2) Where the property referred to in sub-section (1) cannot be identified or has been disposed of by the accused so that it may not be identified, the Court may order such compensation to be paid to the person dispossessed or deprived of such property as it may determine in the circumstances of the case.

(3) No order referred to in sub-section (1) or sub-section (2) shall prejudice any right or interest in any movable property which any person may be able to establish in a civil suit.

(b) Observations on the implementation of the article

When having to decide on confiscation, domestic courts can recognize another State's claim as a legitimate owner of property acquired through the commission of an offence (sects. 88, 89, 517, 522 and 522-A of the Code of Criminal Procedure).

Article 54. Mechanisms for recovery of property through international cooperation in confiscation

Subparagraph 1 (a) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State Party;

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

Asset Recovery is a fundamental Principle of the Convention and UNCAC has unprecedentedly made obligatory the unconditional proceeds of crimes under UNCAC to its country of origin. Asset

Recovery has been an issue of high priority for Islamic Republic of Pakistan and NAB being the implementing agency regarding anti-money laundering laws and mutual legal assistance related to asset recovery of corruption related offences. Number of provisions are included in many laws of Islamic Republic of Pakistan related to enforcement of foreign judgments. Following are the relevant provisions available:

Provision in the **Code of Civil procedure 1908**

13. When foreign judgment not conclusive. A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of them claim litigating under the same title except__

- (a) Where it has not been pronounced by a Court of competent Jurisdiction ;
- (b) Where it has not been given on the merits of the case;
- (c) Where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognize the law of 2 [Pakistan] in cases in which such law is applicable;
- (d) Where the proceedings in which the Judgment was obtained are opposed to natural justice ;
- (e) Where it has been obtained by fraud ;
- (f) Where it sustains a claim founded on a breach of any law in force in [Pakistan].

14. Presumption as to foreign judgment. The Court shall presume, upon the production of any document purporting to be a certified copy of a foreign Judgment, that such Judgment was pronounced by a Court of competent Jurisdiction, unless the contrary appears on the record ; but such presumption may be displaced by proving want of jurisdiction.

Similarly in **National Accountability Ordinance (NAO), 1999**, Asset Recovery and international / regional cooperation are emphasized in its main text as well as in its Preamble which is reproduced as under:

“An Ordinance to provide for the setting up of a National Accountability Bureau so as to eradicate corruption and corrupt practices and hold accountable all those persons accused of such practices and matters ancillary thereto;

WHEREAS it is expedient and necessary to provide for effective measures for the detection, investigation, prosecution and speedy disposal of cases involving corruption, corrupt practices, [misuse or abuse]of power [or authority], misappropriation of property, taking of kickbacks, commissions and for matters connected and ancillary or incidental thereto;

AND WHEREAS there is an emergent need for the recovery of outstanding amounts from those persons who have committed default in the repayment of amounts to Banks, Financial Institutions, [Governmental agencies]and other agencies;

AND WHEREAS there is a grave and urgent need for the recovery of State money and other assets from those persons who have misappropriated or removed such [money or]assets through corruption, corrupt practices and misuse of power or authority;

[AND WHEREAS there is an urgent need to educate the society about the causes and effects of corruption and corrupt practices and to implement policies and procedures for the prevention of corruption in the society;]

[AND WHEREAS there is an increased international awareness that nations should co-operate in combating corruption and seek, obtain or give mutual legal assistance in matters concerning corruption and for matters connected, ancillary or incidental thereto;]

AND WHEREAS it is necessary that a National Accountability Bureau be set up so as to achieve the above aims;”

Section 21 of NAO, 1999: International Cooperation Request for Mutual Legal Assistance

21. -: The Chairman NAB or any officer authorized by the Federal Government may request a Foreign State to do [any or all of] the following acts in accordance with the law of such State:

- (a) have evidence taken, or documents or other articles produced;
- (b) obtain and execute search warrants or other lawful instruments authorizing search for things relevant to investigation or proceedings in Pakistan believed to be located in that State, and if found, seize them;
- (c) freeze assets, by whatever processes are lawfully available in that State, to the extent to which the assets are believed on reasonable grounds to be situated in that State;
- (d) confiscate articles and forfeit assets to the extent to which the articles or assets, as the case may be, are believed to be located in that State;
- (e) transfer to Pakistan any such evidence, documents, things articles, assets or proceeds realized from the disposal of such articles or assets;
- (f) transfer in custody to Pakistan a person detained in [that] state who consents to assist Pakistan in the relevant investigation or proceedings;
- (g) notwithstanding anything contained in the Qanun-e-Shahadat Order 1984 (P.O. 10 of 1984) or any other law for the time being in force all evidence, documents or any other material transferred to Pakistan by a Foreign Government shall be receivable as evidence in legal proceedings under this Ordinance [; and]
- (h) notwithstanding anything to the contrary contained hereinabove, the Chairman NAB may, on such terms and conditions as he deems fit, employ any person or organization, whether in Pakistan or abroad, for detecting, tracing or identifying assets acquired by an accused in connection with an offence under this Ordinance, and secreted or hoarded abroad, or for recovery of and repatriation to Pakistan of such assets

A Bill has been passed by both the houses of Parliament on Mutual Legal Assistance in August 2020 (criminal matters). NAB being central authority under UNCAC is receiving MLA requests from foreign jurisdictions in corruption matters. As a matter of practice NAB used to authorize inquiry under NAO 1999 section 9 (reproduced as under) on the MLA requests received. Thereafter NAB has all the power to collect information (Section 19 read with section 27). Furthermore, under section 12 (reproduced as under), the law authorizes Chairman NAB to issue freezing order in respect of a property which is expected to be alienated by any means. Relevant sections are reproduced as under:

Section 9 of NAO, 1999 (Corruption and Corrupt Practices)

9 (a) A holder of a public office, or any other person, is said to commit or to have committed the offence of corruption and corrupt practices-

- (i) if he accepts or obtains from any person or offers any gratification directly or indirectly, other than legal remuneration, as a motive or reward such as is specified in section 161 of the Pakistan Penal Code (Act XLV of 1860) for doing or for-bearing to do any official act, or for showing or for-bearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person; or
- (ii) if he accepts or obtains or offers any valuable thing without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or likely to be,

concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with his official functions or [from] any person whom he knows to be interested in or related to the person so concerned; or

(iii) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use, or for the use of any other person, any property entrusted to him, or under his control, or willfully allows any other person so to do; or

(iv) if he by corrupt, dishonest, or illegal means, obtains or seeks to obtain for himself, or for his spouse or dependents or any other person, any property, valuable thing, or pecuniary advantage; or

(v) if he or any of his dependents or benamidar owns, possesses, or has [acquired] right or title in any ["assets or holds irrevocable power of attorney in respect of any assets] or pecuniary resources disproportionate to his known sources of income, which he cannot [reasonably] account for [or maintains a standard of living beyond that which is commensurate with his sources of income]; or

(vi) if he misuses his authority so as to gain any benefit or favour for himself or any other person, or [renders or attempts to render] [or willfully fails to exercise his authority to prevent the grant, or rendition of any undue benefit or favour which he could have prevented by exercising his authority];

(vii) if he has issued any directive, policy, or any SRO (Statutory Regulatory Order) or any other order which grants or [attempts to grant] any [undue] concession or benefit in any taxation matter or law or otherwise so as to benefit himself or any relative or associate or a benamidar [or any other person

(viii) if he commits an offence of willful default, {; or }

(ix) if he commits the offence of cheating as defined in section 415 of the Pakistan Penal Code, 1860 (Act XLV of 1860), and thereby dishonestly induces members of the public at large to deliver any property including money or valuable security to any person; or

(x) if he commits the offence of criminal breach of trust as defined in section 405 of the Pakistan Penal Code, 1860 (Act XLV of 1860) with regard to any property including money or valuable security entrusted to him by members of the public at large;

Section 19 of NAO, 1999 Power to call for information

The Chairman NAB or [an officer of the NAB duly authorised by him] may, during the course of an inquiry [or investigation] [of an offence under this Ordinance]:

(a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Ordinance or any rule or order made thereunder.

(b) require any person to produce or deliver any document or thing useful or relevant to the inquiry [or investigation];

(c) examine any person acquainted with the facts and circumstances of the case;

(d) require any bank or financial institution, notwithstanding anything contained in any other law for the time being in force, to provide any information relating to any person whatsoever, including copies of entries made in a bank's or a financial institution's books such as ledgers, day books, cash books and all other books including record of information and transactions saved in electronic or digital form, and the keepers of such books or records shall be obliged to certify the copies in accordance with law [; and]

(e) where there is reasonable suspicion that any person is involved in or is privy to an offence under this Ordinance, the Chairman NAB may, with the prior approval in writing of the High Court concerned, direct that surveillance of that person may be carried out through such means as may be necessary in the facts and circumstances of the case and the Chairman NAB, may in this regard

seek the aid and assistance of any [Governmental] agency and the information so collected may be used as evidence in the trial under this Ordinance:

Provided that the copies obtained or information received or evidence collected under clauses (d) and (e) shall be [kept] confidential and shall not be used for any purpose other than for legal proceedings under this Ordinance.

Section 27 of NAO, 1999: Power to Seek Assistance

The Chairman NAB, [or an officer of the NAB duly authorized by him,] shall have the power to seek full and complete assistance and call for all or any documents and information relevant to or in connection with any matter or [inquiry or investigation] pending before the NAB, [or disposal of any property surrendered to or seized by the NAB,] from any department of the Federal Government, Provincial Government, local authority, bank, financial Institution, person or any authority and institution or department in the public sector or the private sector as he may deem it fit and proper to demand or require, provided that in any case in which a question of secrecy is involved or is raised at any time, the [Chairman NAB's] decision shall be final.

Section 12 of NAO, 1999:

(a) The Chairman NAB or the Court trying [an accused] for any offence as specified under this Ordinance, may, at any time, if there appear reasonable grounds for believing that the accused has committed such an offence, order the freezing of his property, or part thereof, whether in his possession or in the possession of any relative, associate or person on his behalf.

(b) If the property ordered to be frozen under sub-section (a) is a debt or other movable property, the freezing may be made:

(i) by seizure; or

(ii) by appointment of receiver; or

(iii) by prohibiting the delivery of such property to the accused or to anyone on his behalf; or

(iv) by all or any of such or other methods as the Court or the Chairman NAB as the case may be, deem fit.

(c) If the property ordered to be frozen is immovable, the freezing shall, in the case of land paying revenue, be made through the Collector of the district in which the land is situated, and in all other cases-

(i) by taking possession; or

(ii) by appointment of receiver; or

(iii) by prohibiting the payment of rent or delivery of property to the accused or to any other person on his behalf; or

(iv) by all or any of such methods as the Chairman NAB or the Court may deem fit:

Provided that any order of seizure, freezing, attachment or any prohibitory order mentioned above by the Chairman NAB, shall remain in force for a period not exceeding [fifteen] days unless confirmed by the Court, where the Reference under this Ordinance shall be sent by [the Chairman] NAB:

Provided further that notwithstanding [anything to the contrary contained herein,] that the order of [Chairman] NAB or the Court shall be effective from the time of passing thereof or proclamation thereof in a newspaper, widely circulated and dispatch at the last known address of the accused [either by registered post A.D. or courier service or electronic media as the [Court] may deem proper having regard to the facts and circumstances of the case.]

(d) If the property ordered to be frozen consists of livestock or is of a perishable nature, the Chairman NAB, or the Court may, if it deems proper and expedient, order the immediate sale thereof and the proceeds of the sale may be deposited with the Chairman NAB or the Court, or as either may direct as appropriate.

(e) The powers, duties, and liabilities of a receiver, if any, appointed under this section shall be the same as those of a receiver appointed under Order -XL of the Code of Civil Procedure, 1908 (Act V of 1908).

(f) The order of freezing mentioned in sub-sections 'a' to 'e' shall remain operative until the final disposal of the case by the Court, and in the event of the acquittal of the accused, shall continue to remain operative for a period of ten days after receipt of certified copy of the order of acquittal [or release] by NAB, whereafter it shall be subject to an order by the court in which an appeal, if any, is filed.

In order to preserve the assets, a special provision is available in Accountability Law i.e Prohibition to transfer property by an accused is contained in Section 23 which is reproduced as under:

Section 23 of NAO, 1999: -Transfer of Property Void

(a) Notwithstanding anything contained in any other law for the time being in force after the Chairman NAB has initiated [an inquiry or] investigation into [any offence] under this Ordinance, alleged to have been committed by an accused person, [accused] person or any relative or associate of [accused] person or any other person on his behalf, shall not transfer by any means whatsoever, [or] create a charge on any property owned by him or in his possession, while the inquiry, investigation or proceedings are pending before the NAB or the Court; and any transfer of any right; title or interest or creation of a charge on such property shall be void.

(b) Any person who transfers, or creates a charge on property in contravention of sub-section (a) shall be punishable with rigorous imprisonment for a term, which may extend to three years and shall also be liable to fine not exceeding the value of the property involved.

[Provided that such transfer of any right, title or interest or creation of a charge on such property shall not be void if made with the approval of the Court, subject to such terms and conditions as the Court may deem fit.]

The mechanism for asset recovery at domestic level is upon conclusion of trial and if the prosecution is able to prove the case in accordance with the requirements of substantive, procedural and evidence law, the Accountability Court may, in terms of Section 10 of NAO 1999 (Reproduced as under) sentence a person and order forfeiture of assets, obtained through corruption and corrupt practices. Besides, forfeiture of assets, the court may also impose fine.

Section 10 of NAO, 1999: Punishment for corruption and corrupt practices:

10. (a) [A holder of public office, or any other person who commits the offence of corruption and corrupt practices shall be punishable with [rigorous] imprisonment for a term which may extend to 14 years [and with fine] and such of the assets and [pecuniary resources] of such[holder of public office or person, as are] found to be disproportionate to the known sources of his income or which [are] acquired by money obtained through corruption and corrupt practices whether in his name or in the name of any of his dependents, or benamidars shall be forfeited to the appropriate Government, or the concerned bank or financial institution as the case may be.]

(b) The offences specified in the Schedule to this Ordinance shall be punishable in the manner specified therein.

(c) The Federal Government may, by notification in the official Gazette, amend the Schedule so as

to add any entry thereto or modify or omit any entry therein

If accused failed to pay the amount due to him then under section 33E of Accountability Law, any fine or other sum as determined by the court can be recovered as arrears of the land revenue which concern all the aspects, to recover the ill-gotten amount in civil nature as well.

33E of NAO, 1999. Recovery of amount of fines, etc., as arrears of land revenue. Any fine or other sum due under this Ordinance, or as determined to be due by a Court, shall be recoverable as arrears of land revenue.]

The Mutual Legal Assistance (Criminal matters) Act 2020 has been passed by the parliament quite recently. The relevant sections of The Mutual Legal Assistance (Criminal matters) Act 2020 pertaining to this paragraph of Article 54 are as follows:

In section 2 (h) & (i) following definitions have been given;

(h) **“confiscation”** means deprivation of property by order of a court;

(i) **“confiscation order”** means an order made by a court in the Islamic Republic of Pakistan or a court of a country with whom the Islamic Republic of Pakistan has entered into reciprocal agreement for the confiscation of proceeds or instrumentalities of crime or terrorist property or for the property derived or obtained directly or indirectly from the offence of money laundering or property of corresponding value whether or not the order is based on criminal conviction;

MLA Act 2020

Section 14. Foreign confiscation order

(1) Where the central authority approves a request of a country for enforcement of a confiscation order in relation to any property which is believed on reasonable ground to be located in Pakistan, the central authority may apply to the court for enforcement of the confiscation order against such property.

(2) The court shall issue adequate notice to all persons appearing to have an interest in the property against which the confiscation order may be executed.

(3) Any person with an interest in the property against which the application for execution of the confiscation order has been filed may, within thirty days of receiving notice under sub-section (2), make an application objecting to the confiscation.

(4) The court to which an application is made under sub-section (1) may order to enforce the foreign confiscation order, where it is satisfied that there are reasonable grounds to believe that -

(a) an offence has been committed by a person under the laws of the requesting country which, if committed in Pakistan, also constitutes a criminal offence in Pakistan;

(b) the foreign confiscation order has been made in the country in relation to the offence referred to in clause (a);

(c) the confiscation order is in force in the requesting country and is not subject to appeal;

(d) the properties specified in the confiscation order are located in Pakistan; and

(e) the person, whose property is the subject of the confiscation order, had appeared or participated in the proceedings or intentionally refused to do so despite having notice of the proceedings which culminated into such confiscation order being passed.

(5) The central authority may enter into arrangements with the requesting country for transfer to the central authority the whole or part of any property, proceeds or instrumentalities of crime confiscated in Pakistan in response to a request for the enforcement of a confiscation order pursuant to this Act.

Examples of the implementation

Till date Islamic Republic of Pakistan has not received any request from foreign jurisdiction for confiscation of property, however, Pakistan has requested / received following number of mutual legal assistance requests for the last seven years. Moreover, National Accountability Bureau has authorized **nine** inquiries on incoming MLAs wherein information about corruption and corrupt practices was available. Four inquiries/ investigations have been completed whereas **five** inquiries are at advance level, i.e. under trial in court, at investigation stage. NAB has recovered the looted amount in **one inquiry** through Voluntary Return / Plea Bargain and returned the amount to the foreign jurisdiction whereas in two inquiries amount was returned directly by accused persons to foreign jurisdictions due to involvement of NAB.

Number of MLAs sent and information received during 2013 to 2019

S No	Year	No of MLAs sent	Information received on No of MLAs
1.	2013	15	05
2.	2014	25	13
3.	2015	50	15
4.	2016	42	13
5.	2017	16	16
6.	2018	50	05
7.	2019	38	28
Total		236	95

Number of incoming MLA requests from foreign jurisdictions

Sr. No	Year	No of MLAs received	Information sent on No of MLAs
1.	2013	01	01
2.	2014	02	01
3.	2015	06	05
4.	2016	02	02
5.	2017	06	05
6.	2018	01	01
7.	2019	07	05
Total		25	20

Recoveries from Abroad

a) The National Accountability Bureau has contributed in recovery of approximately **US\$ 22 Million** (equivalent to **rupees 1664.324 Million**) secreted abroad through corruption and corrupt practices. Break up wise details are provided below in a tabulated form:

S #	Case	Amount Recovered in US \$ (Million)	Amount Recovered Equivalent to Rupees (Million)
1.	Alliance Scam (UAE) NAB (K) - 2003	1.785	103.082
2.	Admiral (R) Mansoor-ul-Haq (USA) NAB (R) - 2001-2002	7.5	450.688
3.	Col (R) Manzoor Berqi (USA) NAB (HQ) - 2002-2003	2.0	115.438
4.	Mr. Waheed Asghar Shahid (UK) NAB (L) - 2002	0.3	18.0
5.	Mr. Naeem-uddin-Sahaf (UAE & USA) NAB (L) - 2002	0.042	2.52
6.	Mr. Fauzi Ali Kazmi (Switzerland) NAB (K) - 2005	0.503	25.596
7.	BOP Case (Mr. Hamesh Khan / Mr. Sh. Muhammad Afzal Afzaletc) (UAE & Malaysia) December - 2015	8.95 0.54	895 & 54
Total		21.62 (~22)	1664.324

Recoveries sent Abroad

b) Direct Recoveries sent abroad

The National Accountability Bureau has recovered **Rs. 198203490** (approximately US \$ **2255044**) from accused persons in Pakistan and returned the amount. Break up wise details are provided below in a tabulated form:

S #	Case	Amount Recovered and disbursed US \$	Amount Recovered and disbursed to foreign authorities (Pak Rupees)
1.	STR Case ACR No. 36/2008- State Vs. Mr. Farzand Naseem and others	US \$ 2255044.37	Rs. 198203490.89
TOTAL		US \$ 2255044.37	Rs. 198203490.89

c) Indirect Recoveries Sent abroad

The National Accountability Bureau has registered following cases on the request of foreign authorities. After registration of cases accused persons agreed to return looted amounts to foreign authorities. Break up wise details are provided below in a tabulated form:

Sr #	Case Title	Total Amount Recovered in Pakistani Rupees (Rs.)	Total Amount Recovered in US \$	Amount Disbursed
1.	Inquiry against Sponsors of Rafi Peer Theater Workshop (RPTW) and Pakistan Children's Television (PCTV) and Others.	Rs. 109 Million/- or Rs. 109,000,000/-	US \$ 1058252.4 /- (@ Rs. 103 in December, 2016)	Rs. 109 Million/- US \$ 1058252.4 /-
2.	Inquiry against Gillson Live Stock & Ostrich Breeders / Gillson Chemical and Marbles, Lahore and Others.	Rs. 31,200,000/-	US \$ 200,000/- (@ Rs. 156 in September, 2019)	Rs. 31,200,000/- US \$ 200,000/-

The Mutual Legal Assistance (Criminal matters) Act 2020 has come into force recently therefore no more further examples can be provided at the moment.

MLA Guidelines

4.5 ASSISTANCE FOR FOREIGN CONFISCATION ORDER

- i. Where the central authority approves a request of a country for enforcement of a confiscation order in relation to any property which is believed on reasonable grounds to be located in Pakistan, the central authority may apply to the court for enforcement of the confiscation order against such property.
- ii. Section 14 sets out the requirements to be established prior to application for enforcement of a foreign confiscation order.
- iii. The application made so shall include the request to obtain attachment/restraining orders of the property under the relevant laws without any delay until the final decision.
- iv. The court shall issue adequate notice to all persons appearing to have an interest in the property against which the confiscation order may be executed.
- v. Any person with an interest in the property against which the application for execution of the confiscation order has been filed may, within thirty days of receiving notice under sub-section (2), make an application objecting to the confiscation.
- vi. The court to which an application is made under subsection (i) may order to enforce the foreign confiscation order, where it is satisfied that there are reasonable grounds to believe that-

- (a) an offence has been committed by a person under the laws of the requesting country which, if committed in Pakistan, also constitutes a criminal offence in Pakistan;

(b) the foreign confiscation order has been made in the country in relation to the offence referred to in clause (a);

(c) the confiscation order is in force in the requesting country and is not subject to appeal;

(d) the properties specified in the confiscation order are located in Pakistan; and

the person, whose property is the subject of the confiscation order, had appeared or participated in the proceedings or intentionally refused to do so despite having notice of the proceedings which culminated into such confiscation order being passed.

The central authority may enter into arrangements with the requesting country for transfer to the central authority the whole or part of any property, proceeds or instrumentalities of crime confiscated in Pakistan in response to a request for the enforcement of a confiscation order pursuant to MLA Act 2020.

i. Prior to application for enforcement of a foreign confiscation order, the relevant authority should determine the following matters:

a. Is there a freezing or restraining order in place in Pakistan in respect of the relevant property? If the answer is no, then:

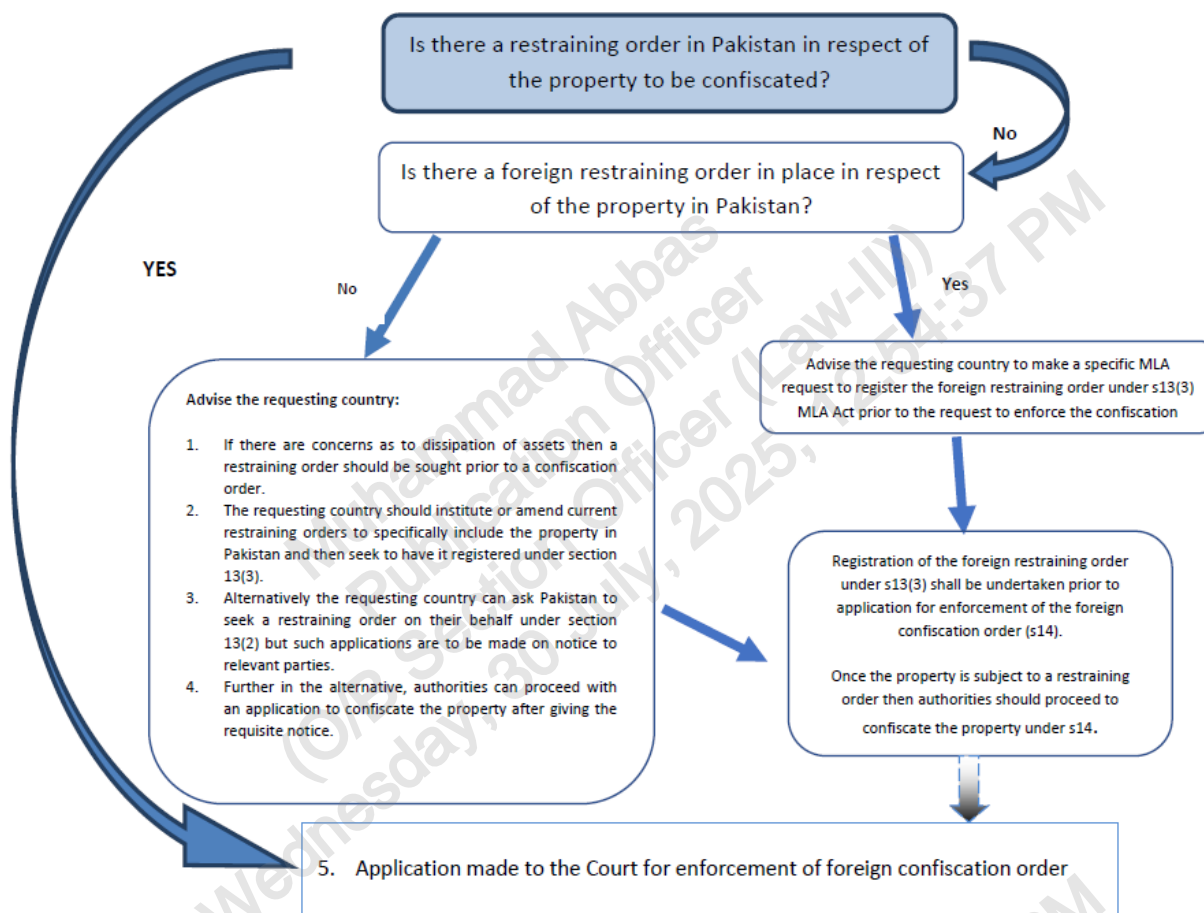
b. Is there a restraining order in the requesting country in respect of the relevant property? and

c. Does the application for enforcement of a foreign confiscation order also include an application for registration of a restraining order?

ii. Prior to an application to the Court to enforce a foreign confiscation order, authorities should ensure that the property is protected from dissipation, by way of a restraining order. This restraining order should be applied for through the Pakistan courts to prevent dissipation of assets prior to registration of the foreign confiscation order.

iii. If there is no restraining order registered in Pakistan prior to the application for enforcement of a foreign confiscation order, authorities should liaise with the requesting country first to avoid risk of dissipation. See section 13 above for the procedure to apply when applying for a restraining order.

See attached flowchart that outlines the process to be undertaken



(b) Observations on the implementation of the article

Pakistan follows the principle that confiscation should be conviction-based. The Mutual Legal Assistance (Criminal Matters) Act (sect. 14) allows, however, for the enforcement of confiscation orders issued by a court of a foreign State on the basis of a reciprocal agreement and on the condition of dual criminality, whether or not the order is based on a criminal conviction (sect. 2 (i)).

Under the Mutual Legal Assistance (Criminal Matters) Act (sect. 14 (2)), a court is required to issue adequate notice to all persons appearing to have an interest in the property against which a confiscation order may be executed. The mutual legal assistance guidelines provide further guidance for the relevant authorities on how to proceed to ensure that the property is protected from dissipation.

It is recommended that Pakistan consider the Convention as the necessary and sufficient treaty basis for the enforcement of confiscation orders issued by a court of another State party, in the absence of a reciprocal agreement.

Subparagraph 1 (b) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

...

(b) Take such measures as may be necessary to permit its competent authorities, where they have jurisdiction, to order the confiscation of such property of foreign origin by adjudication of an offence of money-laundering or such other offence as may be within its jurisdiction or by other procedures authorized under its domestic law; and

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

NAB being central authority under UNCAC is receiving MLA requests from foreign jurisdictions in corruption matters. As a matter of practice NAB used to authorize inquiry under NAO 1999 section 9 (reproduced as under) on the MLA requests received. Thereafter NAB has all the power to collect information (Section 19 read with section 27). Furthermore, under section 12(reproduced as under), the law authorizes Chairman NAB to issue freezing order in respect of a property which is expected to be alienated by any means. Relevant sections are reproduced as under:

Section 9 of NAO,1999 (Corruption and Corrupt Practices)

9 (a) A holder of a public office, or any other person, is said to commit or to have committed the offence of corruption and corrupt practices-

(i) if he accepts or obtains from any person or offers any gratification directly or indirectly, other than legal remuneration, as a motive or reward such as is specified in section 161 of the Pakistan Penal Code (Act XLV of 1860) for doing or for-bearing to do any official act, or for showing or for-bearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person; or

(ii) if he accepts or obtains or offers any valuable thing without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or likely to be, concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with his official functions or [from] any person whom he knows to be interested in or related to the person so concerned; or

(iii) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use, or for the use of any other person, any property entrusted to him, or under his control, or willfully allows any other person so to do; or

(iv) if he by corrupt, dishonest, or illegal means, obtains or seeks to obtain for himself, or for his spouse or dependents or any other person, any property, valuable thing, or pecuniary advantage; or

(v) if he or any of his dependents or benamidar owns, possesses, or has [acquired] right or title in any ["assets or holds irrevocable power of attorney in respect of any assets] or pecuniary resources disproportionate to his known sources of income, which he cannot [reasonably] account for [or maintains a standard of living beyond that which is commensurate with his sources of income]; or

(vi) if he misuses his authority so as to gain any benefit or favour for himself or any other person, or [renders or attempts to render] [or willfully fails to exercise his authority to prevent the grant, or rendition of any undue benefit or favour which he could have prevented by exercising his authority];

(vii) if he has issued any directive, policy, or any SRO (Statutory Regulatory Order) or any other order which grants or [attempts to grant] any [undue] concession or benefit in any taxation matter or law or otherwise so as to benefit himself or any relative or associate or a benamidar [or any other person

(viii) if he commits an offence of willful default, {; or }

(ix) if he commits the offence of cheating as defined in section 415 of the Pakistan Penal Code, 1860 (Act XLV of 1860), and thereby dishonestly induces members of the public at large to deliver any property including money or valuable security to any person; or

(x) if he commits the offence of criminal breach of trust as defined in section 405 of the Pakistan Penal Code, 1860 (Act XLV of 1860) with regard to any property including money or valuable security entrusted to him by members of the public at large;

Section 19 NAO,1999 Power to call for information

The Chairman NAB or [an officer of the NAB duly authorised by him] may, during the course of an inquiry [or investigation] [of an offence under this Ordinance]:

(a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Ordinance or any rule or order made thereunder.

(b) require any person to produce or deliver any document or thing useful or relevant to the inquiry [or investigation];

(c) examine any person acquainted with the facts and circumstances of the case;

(d) require any bank or financial institution, notwithstanding anything contained in any other law for the time being in force, to provide any information relating to any person whatsoever, including copies of entries made in a bank's or a financial institution's books such as ledgers, day books, cash books and all other books including record of information and transactions saved in electronic or digital form, and the keepers of such books or records shall be obliged to certify the copies in accordance with law [; and]

(e) where there is reasonable suspicion that any person is involved in or is privy to an offence under this Ordinance, the Chairman NAB may, with the prior approval in writing of the High Court concerned, direct that surveillance of that person may be carried out through such means as may be necessary in the facts and circumstances of the case and the Chairman NAB, may in this regard

seek the aid and assistance of any [Governmental] agency and the information so collected may be used as evidence in the trial under this Ordinance:

Provided that the copies obtained or information received or evidence collected under clauses (d) and (e) shall be [kept] confidential and shall not be used for any purpose other than for legal proceedings under this Ordinance.

Section 27 NAO,1999: Power to Seek Assistance

The Chairman NAB, [or an officer of the NAB duly authorized by him,] shall have the power to seek full and complete assistance and call for all or any documents and information relevant to or in connection with any matter or [inquiry or investigation] pending before the NAB, [or disposal of any property surrendered to or seized by the NAB,] from any department of the Federal Government, Provincial Government, local authority, bank, financial Institution, person or any authority and institution or department in the public sector or the private sector as he may deem it fit and proper to demand or require, provided that in any case in which a question of secrecy is involved or is raised at any time, the [Chairman NAB's] decision shall be final.

Section 12 of NAO,1999:

(a) The Chairman NAB or the Court trying [an accused] for any offence as specified under this Ordinance, may, at any time, if there appear reasonable grounds for believing that the accused has committed such an offence, order the freezing of his property, or part thereof, whether in his possession or in the possession of any relative, associate or person on his behalf.

(b) If the property ordered to be frozen under sub-section (a) is a debt or other movable property, the freezing may be made:

(i) by seizure; or

(ii) by appointment of receiver; or

(iii) by prohibiting the delivery of such property to the accused or to anyone on his behalf; or

(iv) by all or any of such or other methods as the Court or the Chairman NAB as the case may be, deem fit.

(c) If the property ordered to be frozen is immovable, the freezing shall, in the case of land paying revenue, be made through the Collector of the district in which the land is situated, and in all other cases-

(i) by taking possession; or

(ii) by appointment of receiver; or

(iii) by prohibiting the payment of rent or delivery of property to the accused or to any other person on his behalf; or

(iv) by all or any of such methods as the Chairman NAB or the Court may deem fit:

Provided that any order of seizure, freezing, attachment or any prohibitory order mentioned above by the Chairman NAB, shall remain in force for a period not exceeding [fifteen] days unless confirmed by the Court, where the Reference under this Ordinance shall be sent by [the Chairman] NAB:

Provided further that notwithstanding [anything to the contrary contained herein,] that the order of [Chairman] NAB or the Court shall be effective from the time of passing thereof or proclamation thereof in a newspaper, widely circulated and dispatch at the last known address of the accused [either by registered post A.D. or courier service or electronic media as the [Court] may deem proper having regard to the facts and circumstances of the case.]

(d) If the property ordered to be frozen consists of livestock or is of a perishable nature, the Chairman NAB, or the Court may, if it deems proper and expedient, order the immediate sale thereof and the proceeds of the sale may be deposited with the Chairman NAB or the Court, or as either may direct as appropriate.

(e) The powers, duties, and liabilities of a receiver, if any, appointed under this section shall be the same as those of a receiver appointed under Order -XL of the Code of Civil Procedure, 1908 (Act V of 1908).

(f) The order of freezing mentioned in sub-sections 'a' to 'e' shall remain operative until the final disposal of the case by the Court, and in the event of the acquittal of the accused, shall continue to remain operative for a period of ten days after receipt of certified copy of the order of acquittal [or release] by NAB, whereafter it shall be subject to an order by the court in which an appeal, if any, is filed.

In order to preserve the assets, a special provision is available in Accountability Law i.e Prohibition to transfer property by an accused is contained in Section 23 which is reproduced as under:

Section 23 NAO,1999: Transfer of Property Void

(a) Notwithstanding anything contained in any other law for the time being in force after the Chairman NAB has initiated [an inquiry or] investigation into [any offence] under this Ordinance, alleged to have been committed by an accused person, [accused] person or any relative or associate

of [accused] person or any other person on his behalf, shall not transfer by any means whatsoever, [or] create a charge on any property owned by him or in his possession, while the inquiry, investigation or proceedings are pending before the NAB or the Court; and any transfer of any right; title or interest or creation of a charge on such property shall be void.

(b) Any person who transfers, or creates a charge on property in contravention of sub-section (a) shall be punishable with rigorous imprisonment for a term, which may extend to three years and shall also be liable to fine not exceeding the value of the property involved.

[Provided that such transfer of any right, title or interest or creation of a charge on such property shall not be void if made with the approval of the Court, subject to such terms and conditions as the Court may deem fit.]

The mechanism for asset recovery at domestic level is upon conclusion of trial and if the prosecution is able to prove the case in accordance with the requirements of substantive, procedural and evidence law, the Accountability Court may, in terms of Section 10 of NAO 1999 (Reproduced as under) sentence a person and order forfeiture of assets, obtained through corruption and corrupt practices. Besides, forfeiture of assets, the court may also impose fine.

Section 10 NAO, 1999: Punishment for corruption and corrupt practices:

10. (a) [A holder of public office, or any other person who commits the offence of corruption and corrupt practices shall be punishable with [rigorous] imprisonment for a term which may extend to 14 years [and with fine] and such of the assets and [pecuniary resources] of such [holder of public office or person, as are] found to be disproportionate to the known sources of his income or which [are] acquired by money obtained through corruption and corrupt practices whether in his name or in the name of any of his dependents, or benamidars shall be forfeited to the appropriate Government, or the concerned bank or financial institution as the case may be.]

(b) The offences specified in the Schedule to this Ordinance shall be punishable in the manner specified therein.

(c) The Federal Government may, by notification in the official Gazette, amend the Schedule so as to add any entry thereto or modify or omit any entry therein

If accused failed to pay the amount due to him then under section 33E of Accountability Law, any fine or other sum as determined by the court can be recovered as arrears of the land revenue which concern all the aspects, to recover the ill-gotten amount in civil nature as well.

33E of NAO, 1999. Recovery of amount of fines, etc., as arrears of land revenue. Any fine or other sum due under this Ordinance, or as determined to be due by a Court, shall be recoverable as arrears of land revenue.

Whenever NAB receives Mutual Legal Assistance request and Chairman NAB is satisfied that offence mentioned MLA request is falling within the ambit of NAB then he is authorized to take cognizance of any offence under section 18. It is pertinent to mention here that all the offences under NAO as mentioned in section 9 are the same as are given in UNCAC.

Section 18 of NAO, 1999 (Cognizance of Offences)

(a) The Court shall not take cognizance of any offence under this Ordinance except on a reference made by the Chairman NAB or an officer of the NAB duly authorized by him.

(b) A reference under this Ordinance shall be initiated by the National Accountability Bureau on-

- (i) a reference received from the appropriate government; or
- (ii) receipt of a complaint; or

(iii) [its] own accord.

(c) Where the Chairman NAB, or an officer of the NAB duly authorized by him, is of the opinion that it is, or may be, necessary and appropriate to initiate proceedings against any person, he shall refer the matter for inquiry or investigation.

(d) The responsibility for inquiry into and investigation of an offence alleged to have been committed under this Ordinance shall rest on the NAB to the exclusion of any other agency or authority, unless any such agency or authority is required to do so by the Chairman [NAB] [or by an officer of the NAB duly authorized by him].

(e) The Chairman NAB and such members, officers or servants of the NAB shall have and exercise, for the purposes of an inquiry or investigation the power to arrest any person, and all the powers of an officer-in-charge of a Police Station under the Code, and for that purpose may cause the attendance of any person, and when and if the assistance of any agency, police officer or any other official or agency, as the case may be, is sought by the NAB such official or agency shall render such assistance provided that no person shall be arrested without the permission of the Chairman [NAB] or any officer [of NAB] duly authorized by the Chairman NAB:

(f) Any Inquiry [or] Investigation under this Ordinance shall be completed expeditiously as may be practical and feasible.

(g) The Chairman NAB, [or an officer of the NAB duly authorized by him, shall appraise the material and the evidence placed before him during the inquiry and the investigation, and if he decides that it would be proper and just to proceed further [and there is sufficient material to justify filing of a reference], he shall refer the matter to [a] Court.

(h) If a complaint is inquired into and investigated by the NAB and it is concluded that the complaint received was *prima facie frivolous* or has been filed with intent to malign or defame any person, the Chairman [NAB] or Deputy Chairman NAB or [an officer of the NAB duly authorised by the Chairman NAB], may refer the matter to the court, and if the complainant is found guilty he shall be punishable with imprisonment for a term which may extend to one year, or with fine or with both.

As per section 22 of NAO Chairman NAB may order to inquire/ investigate a matter which he deems appropriate. Section 22 is reproduced as under:

Section 22 NAO,1999 Jurisdiction

(a) The Chairman NAB may [inquire into and] investigate any suspected offence, which appears to him on reasonable grounds to involve [an offence under] this Ordinance, **and has been referred to him**, or of his own accord.

(b) The Chairman NAB may, if he thinks fit, conduct any such investigation in conjunction with any other agency or any other person who is, in the opinion of the Chairman NAB, a proper Agency or person to be concerned in it.

“Anti-Money Laundering Act, 2010; Section 3

Offence of money laundering. A person shall be guilty of offence of money laundering, if the person:

(a) acquires, converts, possesses, uses or transfers property, knowing or having reason to believe that such property is proceeds of crime;

(b) conceals or disguises the true nature, origin, location, disposition, movement or ownership of property knowing or having reason to believe that such property is proceeds of crime;

(c) holds or possesses on behalf of any other person any property knowing or having reason to believe that such property is proceeds of crime; or

participates in, associates, conspires to commit, attempts to commit, aids, abets, facilitates, or counsels the commission of the acts specified in clauses (a), (b) and (c)."

In Section 2 i.e Definitions clause at para "j" National Accountability Bureau along with other agencies have been defined as Investigating and prosecuting agency. Relevant portion of section 2 is reproduced as under:

j. "investigating or prosecuting agency" means the National Accountability Bureau (NAB), Federal Investigation Agency (FIA), Anti-Narcotics Force (ANF) or any other law enforcement agency as may be notified by the Federal Government for the investigation or prosecution of an offence under this Act;

"foreign serious offence" means an offence, (a) against the law of a foreign State stated in a certificate issued by, or on behalf of, the government of that foreign state; and (b) which, had it occurred in Pakistan, would have constituted a predicate offence;

"proceeds of crime" means any property derived or obtained directly or indirectly by any person from the commission of a predicate offence or a foreign serious offence;

4. Punishment for money laundering

(1) Whoever commits the offence of money laundering shall be punished with rigorous imprisonment for a term which shall not be less than one year but may extend up to ten years and shall also be liable to fine which may extend up to twenty-five million rupees and shall also be liable to forfeiture of property involved in money laundering or property of corresponding value.

(2) The fine under sub-section (1) may extend up to one hundred million rupees in case of a legal person. Any director, officer or employee of such legal person who is also found guilty under this section shall also be punishable as provided under sub-section (1).

The Mutual Legal Assistance (Criminal matters) Act 2020

In section 2(p), the following definition has been given;

(p) "proceeds of crime" means any property situated within or outside Pakistan derived from or obtained through commission of a criminal offence, committed within or outside Pakistan;

Examples of the implementation

As mentioned in Article 54-1(a) above.

(b) Observations on the implementation of the article

The Pakistan courts can order the confiscation of property of foreign origin by adjudication of an offence of money-laundering (sect. 2, read in conjunction with sect. 4, of the Anti-Money-Laundering Act; sect. 2 (p) of the Mutual Legal Assistance (Criminal Matters) Act).

Subparagraph 1 (c) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

...

(c) Consider taking such measures as may be necessary to allow confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

Under the CODE OF CRIMINAL PROCEDURE, 1898 following are Relevant Sections

88. Attachment of property of person absconding. (1) The Court issuing a proclamation under section 87 may at any time order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person.

(2) Such order shall authorize the attachment of any property belonging to such person within the district in which it is made; and it shall authorize the attachment of any property belonging to such person without such district when endorsed by the [Sessions Judge] within whose district such property is situate.

(3) If the property ordered to be attached is a debt or other movable property, the attachment under this section shall be made-

(a) by seizure; or

(b) by the appointment of a receiver; or

(c) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or

(d) by all or any two of such methods, as the Court thinks fit.

(4) If the property ordered to be attached is immovable, the attachment under this section shall, in the case of land paying revenue to [the Provincial Government], be made through the [District Officer (Revenue)] in which the land is situate, and in all other cases—

(e) by taking possession ; or

(f) by the appointment of a receiver; or

(g) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf; or

(h) by all or any two of such methods, as the Court thinks fit.

(5) If the property ordered to be attached consists of livestock or is of a perishable nature, the Court may, if it thinks expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.

(6) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under [Order XL of the Code of Civil Procedure, 1908 (Act V of 1908)].

(6A) If any claim is preferred to, or objection made to the attachment of, any property attached under this section within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under this section, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part: Provided that any claim

preferred or objection made within the period allowed by this subsection may, in the event of the death of the claimant or objector, be continued by his legal representative.

(6B) Claims or objections under subsection (6A) may be preferred or made in the Court by which the order of attachment is issued or, if the claim or objection is in respect of property attached under an order endorsed by a [Sessions Judge] 4 in accordance with the provisions of subsection (2), in the Court of such Magistrate.

(6C) Every such claim or objection shall be inquired into by the Court [or Magistrate] in which it is preferred or made [.]

(6D) Any person whose claim or objection has been disallowed in whole or in part by an order under subsection (6A) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the property in dispute; but subject to the result of such suit, if any, the order shall be conclusive.

(6E) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment.]

(7) If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of 5 [the Provincial Government], but it shall not be sold until the expiration of six months from the date of the attachment [and until any claim preferred or objection made under subsection (6A) has been disposed of under that subsection], unless if is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner, in either of which cases the Court may cause it to be sold whenever it thinks fit.

89. Restoration of attached property. If, within two years from the date of the attachment, any person whose property is or has been at the disposal of [the Provincial Government], under subsection (7) of section 88, appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the net proceeds of the sale, or, if part only thereof has been sold, the net proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

516A. Order for custody and disposal of property pending trial in certain cases. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy or natural decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

[Provided that, if the property consists of explosive substance, the Court shall not order it to be sold or handed over to any person other than a Government department or office dealing with, or to an authorised dealer in, such substances.]

[Provided further that if the property is a dangerous drug, intoxicant, intoxicating liquor or any other narcotic substance seized or taken into custody under the Dangerous Drugs Act, 1930 (II of 1930), the Customs Act, 1969 (IV of 1969), the Prohibition (Enforcement of Hadd) Order, 1979 (P.O. 4 of 1979), or any other law for the time being in force, the Court may, either on an application or of its own motion and under its supervision and control, obtain and prepare such number of samples of the property as it may deem fit for safe custody and production before it or any other

Court and cause destruction of the remaining portion of the property under a certificate issued by it in that behalf:

Provided also that such samples shall be deemed to be whole of the property in an inquiry or proceedings in relation to such offence before any authority or Court."]

517. Order for disposal of property regarding which offence committed: (1) When an inquiry or a trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal by destruction, confiscation, or delivery to any person claiming to be entitled to possession thereof or otherwise of any property or document produced before it or in its custody or regarding whiter any offence appear to have been committed or which has been used for the commission of any offence.

(2) When a High Court or Court of Sessions makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by the [District Officer (Revenue)]

(3) When an order is made under this section, such order shall not, except where the property is livestock or subject to speedy and natural decay, and save as provided by subsection (4), be carried out for one month, or, when an appeal is presented, until such appeal has been disposed of.

(4) Nothing in this section shall be deemed to prohibit any Court from delivering any property under the provisions of sub-section (1) to any person claiming to be entitled to the possession thereof, on his executing a bond with or without sureties to the satisfaction of the Court; engaging to restore such property to the Court if the order made under this section is modified or set aside on appeal.

Explanation: In this section the term "property" includes in the case of property regarding which an offence appear to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

The Mutual Legal Assistance (Criminal matters) Act 2020 has been passed by the parliament quite recently. The relevant sections of The Mutual Legal Assistance (Criminal matters) Act 2020 pertaining to this paragraph of Article 54 are as follows:

In section 2 (h), (i), (n), (p) & (q) following definitions have been given;

(h) "confiscation" means deprivation of property by order of a court;

(i) "confiscation order" means an order made by a court in the Islamic Republic of Pakistan or a court of a country with whom the Islamic Republic of Pakistan has entered into reciprocal agreement for the confiscation of proceeds or instrumentalities of crime or terrorist property or for the property derived or obtained directly or indirectly from the offence of money laundering or property of corresponding value whether or not the order is based on criminal conviction;

(n)"Instrumentalities of crime" means any property,

(i) used in, or in connection with, the commission of a criminal offence; or

(ii) for which there are reasonable grounds of suspecting that the said property may be used in, or employed in connection with, the commission of a criminal offence; or

(iii) whether the property is located or the offence is committed within or outside Pakistan;

(p) "proceeds of crime" means any property situated within or outside Pakistan derived from or obtained through commission of a criminal offence, committed within or outside Pakistan;

(q) "property" means property or assets of any description, movable or immovable, corporeal or incorporeal, tangible or intangible, situated within or outside Pakistan;

Section 14 and 15 of MLA Act 2020 are reproduced as under:

Section 14. Foreign confiscation order.

- (1) Where the central authority approves a request of a country for enforcement of a confiscation order in relation to any property which is believed on reasonable ground to be located in Pakistan, the central authority may apply to the court for enforcement of the confiscation order against such property.
- (2) The court shall issue adequate notice to all persons appearing to have an interest in the property against which the confiscation order may be executed.
- (3) Any person with an interest in the property against which the application for execution of the confiscation order has been filed may, within thirty days of receiving notice under sub-section (2), make an application objecting to the confiscation.
- (4) The court to which an application is made under sub-section (1) may order to enforce the foreign confiscation order, where it is satisfied that there are reasonable grounds to believe that -
 - (a) an offence has been committed by a person under the laws of the requesting country which, if committed in Pakistan, also constitutes a criminal offence in Pakistan;
 - (b) the foreign confiscation order has been made in the country in relation to the offence referred to in clause (a);
 - (c) the confiscation order is in force in the requesting country and is not subject to appeal;
 - (d) the properties specified in the confiscation order are located in Pakistan; and
 - (e) the person, whose property is the subject of the confiscation order, had appeared or participated in the proceedings or intentionally refused to do so despite having notice of the proceedings which culminated into such confiscation order being passed.
- (5) The central authority may enter into arrangements with the requesting country for transfer to the central authority the whole or part of any property, proceeds or instrumentalities of crime confiscated in Pakistan in response to a request for the enforcement of a confiscation order pursuant to this Act.

Section 15. Request to recover foreign fines. - (1) Where the central authority approves a request from a country to enforce payment of a fine imposed by a court of that country, it shall make an application to the court to enforce payment of the fine in the manner as if the fine has been imposed by a court in Pakistan.

Explanation. for the purpose of this section, the expression "fine" shall include any pecuniary penalty determined by a foreign court to represent the value of any property, benefit, advantage, obtained or derived directly or indirectly as a result of the commission of an offence.

- (2) The court may pass the order for enforcement of fine, if it is satisfied that -
 - (a) the foreign order is in force in that country and is not subject to appeal; and
 - (b) where the person, who is the subject of the foreign order, had appeared or participated in the proceedings or intentionally refused to do so despite having notice of the proceeding, which culminated into such confiscation order being passed.

No proceedings under sub-section (1) shall be instituted after the expiry of three years from the date when the fine was imposed.

Examples of the implementation

At present Pakistan has not received any request under UNCAC for confiscation of properties wherein offender could not be prosecuted by reason of death, flight of absence etc.

(b) Observations on the implementation of the article

Pakistan follows the principle that confiscation should be conviction-based. The Mutual Legal Assistance (Criminal Matters) Act (sect. 14) allows, however, for the enforcement of confiscation orders issued by a court of a foreign State on the basis of a reciprocal agreement and on the condition of dual criminality, whether or not the order is based on a criminal conviction (sect. 2 (i)).

The authorities of Pakistan may also obtain a domestic conviction-based order of confiscation on the basis of a foreign request (sect. 8 (d) of the Mutual Legal Assistance (Criminal Matters) Act).

It is recommended that Pakistan consider taking measures to allow confiscation of property without a criminal conviction in corruption cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.

Subparagraph 2 (a) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order issued by a court or competent authority of a requesting State Party that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article;

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

NAB being central authority under UNCAC is receiving MLA requests from foreign jurisdictions in corruption matters. As a matter of practice NAB used to authorize inquiry under NAO 1999 section 9 (reproduced as under) on the MLA requests received. Thereafter NAB has all the power to collect information (Section 19 read with section 27). Furthermore, under section 12 (reproduced as under), the law authorizes Chairman NAB to issue freezing order in respect of a property which is expected to be alienated by any means. Relevant sections are reproduced as under:

Section 9 of NAO,1999 (Corruption and Corrupt Practices)

9 (a) A holder of a public office, or any other person, is said to commit or to have committed the offence of corruption and corrupt practices-

(i) if he accepts or obtains from any person or offers any gratification directly or indirectly, other than legal remuneration, as a motive or reward such as is specified in section 161 of the Pakistan Penal Code (Act XLV of 1860) for doing or for-bearing to do any official act, or for showing or for-bearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person; or

(ii) if he accepts or obtains or offers any valuable thing without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or likely to be,

concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with his official functions or [from] any person whom he knows to be interested in or related to the person so concerned; or

(iii) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use, or for the use of any other person, any property entrusted to him, or under his control, or willfully allows any other person so to do; or

(iv) if he by corrupt, dishonest, or illegal means, obtains or seeks to obtain for himself, or for his spouse or dependents or any other person, any property, valuable thing, or pecuniary advantage; or

(v) if he or any of his dependents or benamidar owns, possesses, or has [acquired] right or title in any ["assets or holds irrevocable power of attorney in respect of any assets] or pecuniary resources disproportionate to his known sources of income, which he cannot [reasonably] account for [or maintains a standard of living beyond that which is commensurate with his sources of income]; or

(vi) if he misuses his authority so as to gain any benefit or favour for himself or any other person, or [renders or attempts to render] [or willfully fails to exercise his authority to prevent the grant, or rendition of any undue benefit or favour which he could have prevented by exercising his authority];

(vii) if he has issued any directive, policy, or any SRO (Statutory Regulatory Order) or any other order which grants or [attempts to grant] any [undue] concession or benefit in any taxation matter or law or otherwise so as to benefit himself or any relative or associate or a benamidar [or any other person

(viii) if he commits an offence of willful default, {; or }

(ix) if he commits the offence of cheating as defined in section 415 of the Pakistan Penal Code, 1860 (Act XLV of 1860), and thereby dishonestly induces members of the public at large to deliver any property including money or valuable security to any person; or

(x) if he commits the offence of criminal breach of trust as defined in section 405 of the Pakistan Penal Code, 1860 (Act XLV of 1860) with regard to any property including money or valuable security entrusted to him by members of the public at large;

Section 19 of NAO, 1999: Power to call for information

The Chairman NAB or [an officer of the NAB duly authorised by him] may, during the course of an inquiry [or investigation] [of an offence under this Ordinance]:

(a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Ordinance or any rule or order made thereunder.

(b) require any person to produce or deliver any document or thing useful or relevant to the inquiry [or investigation];

(c) examine any person acquainted with the facts and circumstances of the case;

(d) require any bank or financial institution, notwithstanding anything contained in any other law for the time being in force, to provide any information relating to any person whatsoever, including copies of entries made in a bank's or a financial institution's books such as ledgers, day books, cash books and all other books including record of information and transactions saved in electronic or digital form, and the keepers of such books or records shall be obliged to certify the copies in accordance with law [; and]

(e) where there is reasonable suspicion that any person is involved in or is privy to an offence under this Ordinance, the Chairman NAB may, with the prior approval in writing of the High Court concerned, direct that surveillance of that person may be carried out through such means as may be necessary in the facts and circumstances of the case and the Chairman NAB, may in this regard

seek the aid and assistance of any [Governmental] agency and the information so collected may be used as evidence in the trial under this Ordinance:

Provided that the copies obtained or information received or evidence collected under clauses (d) and (e) shall be [kept] confidential and shall not be used for any purpose other than for legal proceedings under this Ordinance.

Section 27 of NAO, 1999: Power to Seek Assistance

The Chairman NAB, [or an officer of the NAB duly authorized by him,] shall have the power to seek full and complete assistance and call for all or any documents and information relevant to or in connection with any matter or 2[inquiry or investigation] pending before the NAB, [or disposal of any property surrendered to or seized by the NAB,] from any department of the Federal Government, Provincial Government, local authority, bank, financial Institution, person or any authority and institution or department in the public sector or the private sector as he may deem it fit and proper to demand or require, provided that in any case in which a question of secrecy is involved or is raised at any time, the [Chairman NAB's] decision shall be final.

Section 12 of NAO, 1999:

(a) The Chairman NAB or the Court trying [an accused] for any offence as specified under this Ordinance, may, at any time, if there appear reasonable grounds for believing that the accused has committed such an offence, order the freezing of his property, or part thereof, whether in his possession or in the possession of any relative, associate or person on his behalf.

(b) If the property ordered to be frozen under sub-section (a) is a debt or other movable property, the freezing may be made:

(i) by seizure; or

(ii) by appointment of receiver; or

(iii) by prohibiting the delivery of such property to the accused or to anyone on his behalf; or

(iv) by all or any of such or other methods as the Court or the Chairman NAB as the case may be, deem fit.

(c) If the property ordered to be frozen is immovable, the freezing shall, in the case of land paying revenue, be made through the Collector of the district in which the land is situated, and in all other cases-

(i) by taking possession; or

(ii) by appointment of receiver; or

(iii) by prohibiting the payment of rent or delivery of property to the accused or to any other person on his behalf; or

(iv) by all or any of such methods as the Chairman NAB or the Court may deem fit:

Provided that any order of seizure, freezing, attachment or any prohibitory order mentioned above by the Chairman NAB, shall remain in force for a period not exceeding [fifteen] days unless confirmed by the Court, where the Reference under this Ordinance shall be sent by [the Chairman] NAB:

Provided further that notwithstanding [anything to the contrary contained herein,] that the order of [Chairman] NAB or the Court shall be effective from the time of passing thereof or proclamation thereof in a newspaper, widely circulated and dispatch at the last known address of the accused [either by registered post A.D. or courier service or electronic media as the [Court] may deem proper having regard to the facts and circumstances of the case.]

(d) If the property ordered to be frozen consists of livestock or is of a perishable nature, the Chairman NAB, or the Court may, if it deems proper and expedient, order the immediate sale thereof and the proceeds of the sale may be deposited with the Chairman NAB or the Court, or as either may direct as appropriate.

(e) The powers, duties, and liabilities of a receiver, if any, appointed under this section shall be the same as those of a receiver appointed under Order -XL of the Code of Civil Procedure, 1908 (Act V of 1908).

(f) The order of freezing mentioned in sub-sections 'a' to 'e' shall remain operative until the final disposal of the case by the Court, and in the event of the acquittal of the accused, shall continue to remain operative for a period of ten days after receipt of certified copy of the order of acquittal <<http://132.147.0.6/site/Downloads/NAO.asp>>[or release] by NAB, whereafter it shall be subject to an order by the court in which an appeal, if any, is filed.

In order to preserve the assets, a special provision is available in Accountability Law i.e Prohibition to transfer property by an accused is contained in Section 23 which is reproduced as under:

Section 23 of NAO, 1999: - Transfer of Property Void

(a) Notwithstanding anything contained in any other law for the time being in force after the Chairman NAB has initiated [an inquiry or] investigation into [any offence] under this Ordinance, alleged to have been committed by an accused person, [accused] person or any relative or associate of [accused] person or any other person on his behalf, shall not transfer by any means whatsoever, [or] create a charge on any property owned by him or in his possession, while the inquiry, investigation or proceedings are pending before the NAB or the Court; and any transfer of any right; title or interest or creation of a charge on such property shall be void.

(b) Any person who transfers, or creates a charge on property in contravention of sub-section (a) shall be punishable with rigorous imprisonment for a term, which may extend to three years and shall also be liable to fine not exceeding the value of the property involved.

[Provided that such transfer of any right, title or interest or creation of a charge on such property shall not be void if made with the approval of the Court, subject to such terms and conditions as the Court may deem fit.]

The mechanism for asset recovery at domestic level is upon conclusion of trial and if the prosecution is able to prove the case in accordance with the requirements of substantive, procedural and evidence law, the Accountability Court may, in terms of Section 10 of NAO 1999 (Reproduced as under) sentence a person and order forfeiture of assets, obtained through corruption and corrupt practices. Besides, forfeiture of assets, the court may also impose fine.

Section 10 of NAO, 1999: Punishment for corruption and corrupt practices:

10. (a) [A holder of public office, or any other person who commits the offence of corruption and corrupt practices shall be punishable with [rigorous] imprisonment for a term which may extend to 14 years [and with fine] and such of the assets and [pecuniary resources] of such [holder of public office or person, as are] found to be disproportionate to the known sources of his income or which [are] acquired by money obtained through corruption and corrupt practices whether in his name or in the name of any of his dependents, or benamidars shall be forfeited to the appropriate Government, or the concerned bank or financial institution as the case may be.]

(b) The offences specified in the Schedule to this Ordinance shall be punishable in the manner specified therein.

(c) The Federal Government may, by notification in the official Gazette, amend the Schedule so as to add any entry thereto or modify or omit any entry therein

If accused failed to pay the amount due to him then under section 33E of Accountability Law, any fine or other sum as determined by the court can be recovered as arrears of the land revenue which concern all the aspects, to recover the ill-gotten amount in civil nature as well.

33E of NAO, 1999. Recovery of amount of fines, etc., as arrears of land revenue. Any fine or other sum due under this Ordinance, or as determined to be due by a Court, shall be recoverable as arrears of land revenue.

Following provisions are available in Code of Civil Procedure, 1908

13. When foreign judgment not conclusive. A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of them claim litigating under the same title except ___

- (a) Where it has not been pronounced by a Court of competent Jurisdiction ;
- (b) Where it has not been given on the merits of the case;
- (c) Where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognise the law of [Pakistan] in cases in which such law is applicable;
- (d) Where the proceedings in which the Judgment was obtained are opposed to natural justice ;
- (e) Where it has been obtained by fraud ;
- (f) Where it sustains a claim founded on a breach of any law in force in [Pakistan].

14. Presumption as to foreign judgment. The Court shall presume, upon the production of any document purporting to be a certified copy of a foreign Judgment, that such Judgment was pronounced by a Court of competent Jurisdiction, unless the contrary appears on the record ; but such presumption may be displaced by proving want of jurisdiction.

ORDER XXI DEALS WITH EXECUTION OF DECREES AND ORDERS

The Mutual Legal Assistance (Criminal matters) Act 2020 has been passed by the parliament quite recently. The relevant sections of The Mutual Legal Assistance (Criminal matters) Act 2020 pertaining to this paragraph of Article 54 are as follows:

In section 2 (h), (i)& (m) following definitions have been given;

- (h) **"confiscation"** means deprivation of property by order of a court;
- (i) **"confiscation order"** means an order made by a court in the Islamic Republic of Pakistan or a court of a country with whom the Islamic Republic of Pakistan has entered into reciprocal agreement for the confiscation of proceeds or instrumentalities of crime or terrorist property or for the property derived or obtained directly or indirectly from the offence of money laundering or property of corresponding value whether or not the order is based on criminal conviction;
- (m) **"Freezing or seizure"** means temporarily prohibiting the transfer, conversion, disposition or movement of property on the basis of an order issued by a court or other authority and includes an order restraining such dealings:

Relevant sections of MLA Act 2020 are 7 read with section 8 and 14 are reproduced as under:

Section 7 Mutual legal assistance request by Pakistan. A request for mutual legal assistance by the central authority to a country subject to the applicable laws of such country may comprise one or more of the following matters, namely:

- (a) inquire about the location and identification of witnesses, suspects, perpetrators and offenders;
- (b) have evidence taken or documents or other articles produced;
- (c) obtain search warrants or other lawful instruments authorizing a search for evidence relevant to investigations or proceedings in Pakistan, located or as permissible under the domestic law of that country believed to be located in that country and if found, to seize them as permissible under the domestic law of that country;
- (d) freeze or seize properties that are subject to the proceedings being undertaken in Pakistan in a criminal matter in accordance with the relevant legal process in that country to the extent to which the properties are believed on reasonable grounds to be allocated in that country;
- (e) transmit to Pakistan any evidence, documents or articles, properties or proceeds realized from the disposal of properties;
- (f) transfer in custody to Pakistan a person in foreign country who consented to assist Pakistan in the relevant investigation or proceedings
- (a) effect service of judicial documents;
- (b) identify or trace proceeds or instrumentalities of crime or properties for evidentiary purpose;
- (c) facilitate the voluntary appearance of persons required in relation to any existing proceedings in Pakistan;
- (d) provide original or certified copies of relevant documents and records, including government, bank, financial, corporate or business records; and
- (e) provide any other type of assistance that is not contrary to the domestic law of that country.

Section 8 Foreign request for assistance. (1) Where a country makes a request to the Islamic Republic of Pakistan for mutual legal assistance, the central authority may approve mutual legal assistance for similar purposes as those specified in section 7 to the country in relation to investigations commenced or proceedings instituted in that country.

(2) The request under sub-section (1), except as may otherwise be provided for in the domestic law of the country from which information is sought, shall be made out in conformity with the form, as specified by the central authority, which form shall include the following, namely:

- (a) the name of the appropriate authority or such other authority concerned with the criminal matter to which the request relates;
- (b) a description of nature of the criminal matter and a statement setting out a summary of relevant facts and law;
- (c) the description of the purpose of the request and the nature of assistance being sought;
- (d) in the case of request to freeze, seize or confiscate assets located in Pakistan, be accompanied with the details of the criminal offence, particulars of any investigation or proceedings commenced in respect of that offence and a copy of any relevant freezing, seizure or confiscation order of the court;
- (e) details of any procedure that the country wishes to be followed by Pakistan in giving effect to the request, particularly in the case of a request to take evidence, as far as it is not contrary to the laws of Pakistan;
- (f) a statement setting out any requirements of the country concerning any confidentiality relating to the request and the reasons thereof;
- (g) details of the period within which the country wishes the request to be complied with;

- (h) details where applicable, regarding the grounds for believing that the relevant properties to be traced, frozen or seized or confiscated, are located in Pakistan; and
- (i) any other information that may assist in giving effect to the request.

Section 13: Foreign request to the Islamic Republic of Pakistan for freezing or seizure orders.

(1) Where the central authority approves a request of a country pursuant to section 10 to restrain dealings in any properties, some or all of which are located in Pakistan, the central authority may apply to the court for a freezing or seizure order.

(2) The court to which an application is made under sub-section (1) may after providing the person with the opportunity of being heard issue a freezing or seizure order, where the court is satisfied that there are reasonable grounds to believe that-

- (a) an offence has been committed by a person under the laws of the requesting country' which, if committed in Pakistan, also constitutes a criminal offence in Pakistan;
- (b) an investigation or proceedings have commenced in the country relating to that offence;
- (c) properties derived by the person, by himself or any other person on his behalf, from the commission of the offence are located in Pakistan; and
- (d) an order has been made in the country having the effect of confiscating such properties.

(3) Where a competent court of requesting country has passed a freezing or seizure order, or has passed any amendment in respect thereof, the central authority shall apply to have the same registered with the court and the freezing or seizure order, or the amendment thereof, as the case may be, shall not be effective in Pakistan until it is so registered. Where a foreign freezing or seizure order is registered in accordance with this section, a copy of any amendments made in the order of the country, whether before or after registration, may be registered in the same manner as the order was registered, but shall not have effect for the purpose of this Act until they are so registered.

(4) The court shall, on application by the central authority, cancel the registration of a foreign freezing or seizure order, if it appears that the order has ceased to have effect in that country.

(5) Subject to sub-section (6), where the foreign freezing or seizure order is a facsimile of a duly authenticated foreign order, or amendment made in such order, the facsimile shall be regarded for the purpose of this Act as the duly authenticated foreign order

(6) Registration effected by means of a facsimile shall cease to have effect at the end of a period of fourteen days commencing on the date of registration, unless a duly authenticated original order has been registered by that time.

Examples of the implementation

At present Pakistan has not received any request from foreign jurisdiction under UNCAC for freezing / seizure of properties. However, on the request of foreign jurisdiction Pakistan has authorized 4 inquiries and recovered / returned amount in one case. Details are mentioned in article 54-1(a).

MLA Guidelines

4.3 ASSISTANCE WITH REQUESTS FOR FREEZING OR SEIZURE ORDERS

i. Where the central authority approves a request of a country to restrain dealings in any properties, some or all of which are located in Pakistan, the central authority may apply to the court for a freezing or seizure order. The application made so shall include the request to obtain attachment/ restraining orders of the property under the relevant laws without any delay until the final decision.

Where possible, the Central Authority should liaise informally with the requesting country first, to ensure that the proposed MLA request meets Pakistan's legal requirements, and to determine the most relevant legal provisions to best preserve the assets in Pakistan.

ii. Section 13 provides two options for the provision of assistance:

- Where a country requests a restraining order to be sought in Pakistan (s13(2)); and
- Where a country requests the registration of a foreign restraining order (s13(3)).

Application for the registration of a foreign restraining order

iv. Under section 13(3), Where a competent court of requesting country has passed a freezing or seizure order, or has passed any amendment in respect thereof, the central authority shall apply to have the same registered with the court and the freezing or seizure order, or the amendment thereof, as the case may be, shall not be effective in Pakistan until it is so registered.

Where a foreign freezing or seizure order is registered in accordance with this section, a copy of any amendments made in the order of the country, whether before or after registration, may be registered in the same manner as the order was registered, but shall not have effect for the purpose of MLA Act 2020 until they are so registered.

v. The court shall, on application by the central authority, cancel the registration of a foreign freezing or seizure order, if it appears that the order has ceased to have effect in that country.

vi. Where the foreign freezing or seizure order is a facsimile of a duly authenticated foreign order, or amendment made in such order, the facsimile shall be regarded for the purpose of MLA Act 2020 as the duly authenticated foreign order.

vii. Registration effected by means of a facsimile shall cease to have effect at the end of a period of fourteen days commencing on the date of registration, unless a duly authenticated original order has been registered by that time.

Implementing authorities should note that this sub-section does not require notice to be given to an accused prior to the application; however notice should be served on the accused person after the application.

(b) Observations on the implementation of the article

Under the Mutual Legal Assistance (Criminal Matters) Act (sect. 13 (3)), the competent authorities of Pakistan are permitted to freeze or seize property upon a freezing or seizure order issued by a competent court of a foreign State through its registration with the court in Pakistan. No prior notice to the persons concerned is required in this case (sect. 4.3 of the mutual legal assistance guidelines). The Mutual Legal Assistance (Criminal Matters) Act does not provide for the enforcement of freezing or seizure orders issued by a foreign competent authority other than a court.

It is recommended that Pakistan take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order issued by a foreign competent authority other than a court.

Subparagraph 2 (b) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

...

(b) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a request that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article; and

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

NAB being central authority under UNCAC is receiving MLA requests from foreign jurisdictions in corruption matters. As a matter of practice NAB used to authorize inquiry under NAO 1999 section 9 (reproduced as under) on the MLA requests received. Thereafter NAB has all the power to collect information (Section 19 read with section 27). Furthermore, under section 12 (reproduced as under), the law authorizes Chairman NAB to issue freezing order in respect of a property which is expected to be alienated by any means. Relevant sections are reproduced as under:

Section 9 of NAO, 1999(Corruption and Corrupt Practices)

9 (a) A holder of a public office, or any other person, is said to commit or to have committed the offence of corruption and corrupt practices-

(i) if he accepts or obtains from any person or offers any gratification directly or indirectly, other than legal remuneration, as a motive or reward such as is specified in section 161 of the Pakistan Penal Code (Act XLV of 1860) for doing or for-bearing to do any official act, or for showing or for-bearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person; or

(ii) if he accepts or obtains or offers any valuable thing without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or likely to be, concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with his official functions or [from] any person whom he knows to be interested in or related to the person so concerned; or

(iii) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use, or for the use of any other person, any property entrusted to him, or under his control, or willfully allows any other person so to do; or

(iv) if he by corrupt, dishonest, or illegal means, obtains or seeks to obtain for himself, or for his spouse or dependents or any other person, any property, valuable thing, or pecuniary advantage; or

(v) if he or any of his dependents or benamidar owns, possesses, or has [acquired] right or title in any ["assets or holds irrevocable power of attorney in respect of any assets] or pecuniary resources disproportionate to his known sources of income, which he cannot [reasonably] account for [or maintains a standard of living beyond that which is commensurate with his sources of income]; or

(vi) if he misuses his authority so as to gain any benefit or favour for himself or any other person, or [renders or attempts to render] [or willfully fails to exercise his authority to prevent the grant, or rendition of any undue benefit or favour which he could have prevented by exercising his authority];

(vii) if he has issued any directive, policy, or any SRO (Statutory Regulatory Order) or any other order which grants or [attempts to grant] any [undue] concession or benefit in any taxation matter or law or otherwise so as to benefit himself or any relative or associate or a benamidar [or any other person

(viii) if he commits an offence of willful default, {; or }

(ix) if he commits the offence of cheating as defined in section 415 of the Pakistan Penal Code,

1860 (Act XLV of 1860), and thereby dishonestly induces members of the public at large to deliver any property including money or valuable security to any person; or

(x) if he commits the offence of criminal breach of trust as defined in section 405 of the Pakistan Penal Code, 1860 (Act XLV of 1860) with regard to any property including money or valuable security entrusted to him by members of the public at large;

Section 19 of NAO, 1999: Power to call for information

The Chairman NAB or [an officer of the NAB duly authorised by him] may, during the course of an inquiry [or investigation] [of an offence under this Ordinance]:

(a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Ordinance or any rule or order made thereunder.

(b) require any person to produce or deliver any document or thing useful or relevant to the inquiry [or investigation];

(c) examine any person acquainted with the facts and circumstances of the case;

(d) require any bank or financial institution, notwithstanding anything contained in any other law for the time being in force, to provide any information relating to any person whatsoever, including copies of entries made in a bank's or a financial institution's books such as ledgers, day books, cash books and all other books including record of information and transactions saved in electronic or digital form, and the keepers of such books or records shall be obliged to certify the copies in accordance with law [; and]

(e) where there is reasonable suspicion that any person is involved in or is privy to an offence under this Ordinance, the Chairman NAB may, with the prior approval in writing of the High Court concerned, direct that surveillance of that person may be carried out through such means as may be necessary in the facts and circumstances of the case and the Chairman NAB, may in this regard

seek the aid and assistance of any [Governmental] agency and the information so collected may be used as evidence in the trial under this Ordinance:

Provided that the copies obtained or information received or evidence collected under clauses (d) and (e) shall be [kept] confidential and shall not be used for any purpose other than for legal proceedings under this Ordinance.

Section 27 of NAO, 1999: Power to Seek Assistance

The Chairman NAB, [or an officer of the NAB duly authorized by him,] shall have the power to seek full and complete assistance and call for all or any documents and information relevant to or in connection with any matter or [inquiry or investigation] pending before the NAB, [or disposal of any property surrendered to or seized by the NAB,] from any department of the Federal Government, Provincial Government, local authority, bank, financial Institution, person or any authority and institution or department in the public sector or the private sector as he may deem it fit and proper to demand or require, provided that in any case in which a question of secrecy is involved or is raised at any time, the [Chairman NAB's] decision shall be final.

Section 12 of NAO, 1999:

(a) The Chairman NAB or the Court trying [an accused] for any offence as specified under this Ordinance, may, at any time, if there appear reasonable grounds for believing that the accused has committed such an offence, order the freezing of his property, or part thereof, whether in his possession or in the possession of any relative, associate or person on his behalf.

(b) If the property ordered to be frozen under sub-section (a) is a debt or other movable property, the freezing may be made:

- (i) by seizure; or
- (ii) by appointment of receiver; or
- (iii) by prohibiting the delivery of such property to the accused or to anyone on his behalf; or
- (iv) by all or any of such or other methods as the Court or the Chairman NAB as the case may be, deem fit.

(c) If the property ordered to be frozen is immovable, the freezing shall, in the case of land paying revenue, be made through the Collector of the district in which the land is situated, and in all other cases-

- (i) by taking possession; or
- (ii) by appointment of receiver; or
- (iii) by prohibiting the payment of rent or delivery of property to the accused or to any other person on his behalf; or
- (iv) by all or any of such methods as the Chairman NAB or the Court may deem fit:

Provided that any order of seizure, freezing, attachment or any prohibitory order mentioned above by the Chairman NAB, shall remain in force for a period not exceeding [fifteen] days unless confirmed by the Court, where the Reference under this Ordinance shall be sent by [the Chairman] NAB:

Provided further that notwithstanding [anything to the contrary contained herein,] that the order of [Chairman] NAB or the Court shall be effective from the time of passing thereof or proclamation thereof in a newspaper, widely circulated and dispatch at the last known address of the accused [either by registered post A.D. or courier service or electronic media as the [Court] may deem proper having regard to the facts and circumstances of the case.]

(d) If the property ordered to be frozen consists of livestock or is of a perishable nature, the Chairman NAB, or the Court may, if it deems proper and expedient, order the immediate sale thereof and the proceeds of the sale may be deposited with the Chairman NAB or the Court, or as either may direct as appropriate.

(e) The powers, duties, and liabilities of a receiver, if any, appointed under this section shall be the same as those of a receiver appointed under Order -XL of the Code of Civil Procedure, 1908 (Act V of 1908).

(f) The order of freezing mentioned in sub-sections 'a' to 'e' shall remain operative until the final disposal of the case by the Court, and in the event of the acquittal of the accused, shall continue to remain operative for a period of ten days after receipt of certified copy of the order of acquittal [or release] by NAB, whereafter it shall be subject to an order by the court in which an appeal, if any, is filed.

In order to preserve the assets, a special provision is available in Accountability Law i.e Prohibition to transfer property by an accused is contained in Section 23 which is reproduced as under:

Section 23 of NAO, 1999: Transfer of Property Void

(a) Notwithstanding anything contained in any other law for the time being in force after the Chairman NAB has initiated [an inquiry or] investigation into [any offence] under this Ordinance, alleged to have been committed by an accused person, [accused] person or any relative or associate of [accused] person or any other person on his behalf, shall not transfer by any means whatsoever, [or] create a charge on any property owned by him or in his possession, while the inquiry,

investigation or proceedings are pending before the NAB or the Court; and any transfer of any right; title or interest or creation of a charge on such property shall be void.

(b) Any person who transfers, or creates a charge on property in contravention of sub-section (a) shall be punishable with rigorous imprisonment for a term, which may extend to three years and shall also be liable to fine not exceeding the value of the property involved.

[Provided that such transfer of any right, title or interest or creation of a charge on such property shall not be void if made with the approval of the Court, subject to such terms and conditions as the Court may deem fit.]

The mechanism for asset recovery at domestic level is upon conclusion of trial and if the prosecution is able to prove the case in accordance with the requirements of substantive, procedural and evidence law, the Accountability Court may, in terms of Section 10 of NAO 1999 (Reproduced as under) sentence a person and order forfeiture of assets, obtained through corruption and corrupt practices. Besides, forfeiture of assets, the court may also impose fine.

Section 10 of NAO, 1999: Punishment for corruption and corrupt practices:

10. (a) [A holder of public office, or any other person who commits the offence of corruption and corrupt practices shall be punishable with [rigorous] imprisonment for a term which may extend to 14 years [and with fine] and such of the assets and [pecuniary resources] of such [holder of public office or person, as are] found to be disproportionate to the known sources of his income or which [are] acquired by money obtained through corruption and corrupt practices whether in his name or in the name of any of his dependents, or benamidars shall be forfeited to the appropriate Government, or the concerned bank or financial institution as the case may be.]

(b) The offences specified in the Schedule to this Ordinance shall be punishable in the manner specified therein.

(c) The Federal Government may, by notification in the official Gazette, amend the Schedule so as to add any entry thereto or modify or omit any entry therein

If accused failed to pay the amount due to him then under section 33E of Accountability Law, any fine or other sum as determined by the court can be recovered as arrears of the land revenue which concern all the aspects, to recover the ill-gotten amount in civil nature as well.

Section 33E of NAO, 1999: Recovery of amount of fines, etc., as arrears of land revenue. Any fine or other sum due under this Ordinance, or as determined to be due by a Court, shall be recoverable as arrears of land revenue.

Following provisions are available in Code of Civil Procedure, 1908

13. When foreign judgment not conclusive. A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of them claim litigating under the same title except __

(a) Where it has not been pronounced by a Court of competent Jurisdiction ;

(b) Where it has not been given on the merits of the case;

(c) Where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognise the law of [Pakistan] in cases in which such law is applicable;

(d) Where the proceedings in which the Judgment was obtained are opposed to natural justice ;

(e) Where it has been obtained by fraud ;

(f) Where it sustains a claim founded on a breach of any law in force in [Pakistan].

14. Presumption as to foreign judgment. The Court shall presume, upon the production of any document purporting to be a certified copy of a foreign Judgment, that such Judgment was pronounced by a Court of competent Jurisdiction, unless the contrary appears on the record ; but such presumption may be displaced by proving want of jurisdiction.

ORDER XXI DEALS WITH EXECUTION OF DECREES AND ORDERS

The Mutual Legal Assistance (Criminal matters) Act 2020 has been passed by the parliament quite recently. The relevant sections of The Mutual Legal Assistance (Criminal matters) Act 2020 pertaining to this paragraph of Article 54 are as follows:

In section 2 (h), (i)& (m) following definitions have been given;

(h) **“confiscation”** means deprivation of property by order of a court;

(i) **“confiscation order”** means an order made by a court in the Islamic Republic of Pakistan or a court of a country with whom the Islamic Republic of Pakistan has entered into reciprocal agreement for the confiscation of proceeds or instrumentalities of crime or terrorist property or for the property derived or obtained directly or indirectly from the offence of money laundering or property of corresponding value whether or not the order is based on criminal conviction;

(m) **“Freezing or seizure”** means temporarily prohibiting the transfer, conversion, disposition or movement of property on the basis of an order issued by a court or other authority and includes an order restraining such dealings:

Relevant sections of MLA Act 2020 are 7 read with section 8 and 14 are reproduced as under:

Section 7 Mutual legal assistance request by Pakistan. A request for mutual legal assistance by the central authority to a country subject to the applicable laws of such country may comprise one or more of the following matters, namely:

- (a) inquire about the location and identification of witnesses, suspects, perpetrators and offenders;
 - (b) have evidence taken or documents or other articles produced;
 - (c) obtain search warrants or other lawful instruments authorizing a search for evidence relevant to investigations or proceedings in Pakistan, located or as permissible under the domestic law of that country believed to be located in that country and if found, to seize them as permissible under the domestic law of that country;
 - (d) freeze or seize properties that are subject to the proceedings being undertaken in Pakistan in a criminal matter in accordance with the relevant legal process in that country to the extent to which the properties are believed on reasonable grounds to be allocated in that country;
 - (e) transmit to Pakistan any evidence, documents or articles, properties or proceeds realized from the disposal of properties;
 - (f) transfer in custody to Pakistan a person in foreign country who consented to assist Pakistan in the relevant investigation or proceedings
- (a) effect service of judicial documents;
 - (b) identify or trace proceeds or instrumentalities of crime or properties for evidentiary purpose;
 - (c) facilitate the voluntary appearance of persons required in relation to any existing proceedings in Pakistan;
 - (d) provide original or certified copies of relevant documents and records, including government, bank, financial, corporate or business records; and
 - (e) provide any other type of assistance that is not contrary to the domestic law of that country.

Section 8 Foreign request for assistance. (1) Where a country makes a request to the Islamic Republic of Pakistan for mutual legal assistance, the central authority may approve mutual legal assistance for similar purposes as those specified in section 7 to the country in relation to investigations commenced or proceedings instituted in that country.

(2) The request under sub-section (1), except as may otherwise be provided for in the domestic law of the country from which information is sought, shall be made out in conformity with the form, as specified by the central authority, which form shall include the following, namely:

- (a) the name of the appropriate authority or such other authority concerned with the criminal matter to which the request relates;
- (b) a description of nature of the criminal matter and a statement setting out a summary of relevant facts and law;
- (c) the description of the purpose of the request and the nature of assistance being sought;
- (d) in the case of request to freeze, seize or confiscate assets located in Pakistan, be accompanied with the details of the criminal offence, particulars of any investigation or proceedings commenced in respect of that offence and a copy of any relevant freezing, seizure or confiscation order of the court;
- (e) details of any procedure that the country wishes to be followed by Pakistan in giving effect to the request, particularly in the case of a request to take evidence, as far as it is not contrary to the laws of Pakistan;
- (f) a statement setting out any requirements of the country concerning any confidentiality relating to the request and the reasons thereof;
- (g) details of the period within which the country wishes the request to be complied with;
- (h) details where applicable, regarding the grounds for believing that the relevant properties to be traced, frozen or seized or confiscated, are located in Pakistan; and
- (i) any other information that may assist in giving effect to the request.

10. Section 14 Foreign confiscation order. (1) Where the central authority approves a request of a country for enforcement of a confiscation order in relation to any property which is believed on reasonable ground to be located in Pakistan, the central authority may apply to the court for enforcement of the confiscation order against such property.

(2) The court shall issue adequate notice to all persons appearing to have an interest in the property against which the confiscation order may be executed.

(3) Any person with an interest in the property against which the application for execution of the confiscation order has been filed may, within thirty days of receiving notice under sub-section (2), make an application objecting to the confiscation.

(4) The court to which an application is made under sub-section (1) may order to enforce the foreign confiscation order, where it is satisfied that there are reasonable grounds to believe that -

- (a) an offence has been committed by a person under the laws of the requesting country which, if committed in Pakistan, also constitutes a criminal offence in Pakistan;
- (b) the foreign confiscation order has been made in the country in relation to the offence referred to in clause (a);
- (c) the confiscation order is in force in the requesting country and is not subject to appeal;
- (d) the properties specified in the confiscation order are located in Pakistan; and

(e) the person, whose property is the subject of the confiscation order, had appeared or participated in the proceedings or intentionally refused to do so despite having notice of the proceedings which culminated into such confiscation order being passed.

The central authority may enter into arrangements with the requesting country for transfer to the central authority the whole or part of any property, proceeds or instrumentalities of crime confiscated in Pakistan in response to a request for the enforcement of a confiscation order pursuant to this Act.

Examples of the implementation

At present Pakistan has not received any request from foreign jurisdiction under UNCAC for freezing / seizure of properties. However, on the request of foreign jurisdiction Pakistan has authorized 4 inquiries and recovered / returned amount in one case. Details are mentioned in article 54-1(a).

MLA Guidelines

4.3 ASSISTANCE WITH REQUESTS FOR FREEZING OR SEIZURE ORDERS

i. Where the central authority approves a request of a country to restrain dealings in any properties, some or all of which are located in Pakistan, the central authority may apply to the court for a freezing or seizure order. The application made so shall include the request to obtain attachment/ restraining orders of the property under the relevant laws without any delay until the final decision.

Where possible, the Central Authority should liaise informally with the requesting country first, to ensure that the proposed MLA request meets Pakistan's legal requirements, and to determine the most relevant legal provisions to best preserve the assets in Pakistan.

ii. Section 13 provides two options for the provision of assistance:

- Where a country requests a restraining order to be sought in Pakistan (s13(2); and
- Where a country requests the registration of a foreign restraining order (s13(3)).

Application for a restraining order in Pakistan on behalf of a requesting country:

iii. Under section 13(2), a court to which an application is made may after providing the person with the opportunity of being heard issue a freezing or seizure order, where the court is satisfied that there are reasonable grounds to believe that-

- (a) an offence has been committed by a person under the laws of the requesting country which, if committed in Pakistan, also constitutes a criminal offence in Pakistan;
- (b) an investigation or proceedings have commenced in the country relating to that offence;
- (c) properties derived by the person, by himself or any other person on his behalf, from the commission of the offence are located in Pakistan; and
- (d) an order has been made in the country having the effect of confiscating such properties.

Concerned authorities should note the requirement in section 13(2) that the application is to be made after providing the person with the opportunity of being heard. Therefore, before taking action under this section, authorities shall liaise with the requesting country to advise them of Pakistan's legal requirements to provide notice to all persons prior to the application. Requesting countries should be notified of the alternative provisions at section 13(3) that allow Pakistan to register a foreign restraining order without the requirement of such notice prior.

If the requesting country does not have a restraining order in place in respect of the property in Pakistan, authorities may consider advising the requesting country to institute or amend restraining orders to ensure they specifically include the property

in Pakistan. An application can then be made to the court in Pakistan under section 13(3) by the Central Authority to register that order.

(b) Observations on the implementation of the article

The Mutual Legal Assistance (Criminal Matters) Act (sect. 13 (2)) permits Pakistan courts to freeze or seize property upon a request from a foreign State. In this case, the court may issue a freezing or seizure order only after providing the persons concerned with the opportunity to be heard and ensuring that a number of requirements are met, including dual criminality and the existence of a valid confiscation order issued by the requesting State.

Where the act of notifying the persons concerned before freezing or seizing property has the potential to compromise foreign investigations and may result in requests not being made, foreign jurisdictions have the option, in corruption-related cases, to send the request directly to NAB. In such cases, the Chair of NAB can order the seizure or freezing of the property without notifying the persons concerned. The order remains in force for a period not exceeding 15 days, unless otherwise decided by the court (sect. 12 of the National Accountability Ordinance).

The MLA Guidelines require concerned authorities, before taking action under section 13(2) of the MLA Act, to liaise with the requesting country to advise them of Pakistan's legal requirements to provide notice to all persons prior to the application. Requesting countries should be notified of the alternative provisions at section 13(3) that allow Pakistan to register a foreign restraining order without the requirement of a prior notice.

Subparagraph 2 (c) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

...

(c) Consider taking additional measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

Asset recovery is mainly governed by the general provisions on international legal assistance of the MLAA in addition to provisions that are fragmented into various laws, including the generally applicable CrPC (sections 516A, 517 and 550) and the special criminal laws, i.e., the NAO, 1999 (sections 5(1), 10, 12 and 23), the AML Act (sections 6(6), 8, 9, 14 and 30), the CNSA (sections 37-41), the Customs Act, 1969 (section 17) and the FIA Act (section 5(5)). The above-referred laws provide for confiscation of proceeds of crime or property involved in the designated offences. Proceeds of crime include any property that is obtained directly or indirectly from a specific offence. The AML Act provides for confiscation of 'property involved in money laundering' (section 4). The Control of Narcotics Substances Act, 1997 provides for 'forfeiture of all assets' following the conviction for money laundering offence (sections 12 and 13). The NAO provides for confiscation of 'assets' that are found to be disproportionate to the known sources of income or acquired by

corruption and corrupt practices whether in the name of accused or any of his/her dependants (sections 9 and 10). Likewise, there are provisions existing in the FIA Act and Customs Act for confiscation of illegal assets.

With regard to temporary freeze, the AML Act allows for provisional attachment of property that is reasonably believed to be involved in money laundering without serving a notice to the accused (section 8).

8. Attachment of property involved in money laundering. (1) An investigating officer may, on the basis of the report in his possession received from the concerned investigating or prosecuting agency, by order in writing, with prior permission of the Court, provisionally attach a property, which he reasonably believes to be the property involved in money laundering for a period not exceeding ninety days from the date of the order.

(2) The investigating officer shall, within forty-eight hours immediately after attachment under sub-section (1), forward a copy of the order and the report referred to in that sub-section to the head of the concerned investigating agency in a sealed envelope.

(3) Every order of attachment made under sub-section (1) shall cease to have effect after the expiry of the period specified in that sub-section or on the date of the finding made under sub-section (2) of section 9 whichever is earlier.

(4) Nothing in this section shall prevent the person interested in the enjoyment of the immovable property attached under sub-section (1) from such enjoyment.

Explanation. For the purposes of this sub-section, “person interested”, in relation to any immovable property, includes all persons claiming or entitled to claim any interest in the property.

(5) The investigating officer who provisionally attaches any property under subsection (1) shall submit to the Court monthly report of the progress made in the investigation.

Power to prevent or void actions concerning illegal assets have additionally been provided in the above laws. For example, the AML Act provides that the special Court may declare void any encumbrance on the property or leasehold interest that has been created with a view to defeat the provisions of the AML Act (section 10).

Section 10. Vesting of property in Federal Government. Where an order of forfeiture has been made under sub-section (6) of section 9 in respect of any property of a person, all the rights and title in such property shall vest absolutely in the Federal Government free from all encumbrances:

Provided that where the Court, after giving an opportunity of being heard to any other person interested in the property attached under section 8, or seized under section 14, is of the opinion that any encumbrance on the property or leasehold interest has been created with a view to defeat the provisions of this Act, it may, by order, declare such encumbrance or lease-hold interest to be void and thereupon the aforesaid property shall vest in the Federal Government free from such encumbrances or lease-hold interest:

Provided further that nothing in this section shall operate to discharge any person from any liability in respect of such encumbrances, which may be legally enforced against such person.

14. Search and seizure.

(1) Subject to sub-section (2), where the investigating officer, on the basis of information in his possession, has reason to believe that any person

(a) has committed any act which constitutes money-laundering;

- (b) is in possession of any property involved in money laundering; or
- (c) is in possession of any record which may be useful for or relevant to proceedings under this Act, he may either himself, or authorize any officer subordinate to him to,
- (i) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such record or properties are kept;
 - (ii) break open the lock of any door, box locker, safe, almirah or other receptacles for exercising the powers conferred by clause (i) where the keys thereof are not available;
 - (iii) seize any such record or property found as a result of such search;
 - (iv) place marks of identification on such record or make, or cause to be made, extracts or copies therefrom;
 - (v) make a note of any inventory of such record or property; or
 - (vi) examine any person, who is found to be in possession or control of any such record or property, in respect of all matters relevant for the purposes of any investigation under this Act.”;

(2) The powers to search under sub-section (1) shall be exercisable by the investigating officer with the prior permission of the Court:

Provided that where immediate action is required, the powers of search and seizure shall be exercisable with the prior permission of the senior officer of the concerned investigating or prosecuting agency not below the rank of an officer of BS-20.

(3) The investigating officer shall, within forty-eight hours immediately after search and seizure, forward a copy of the report on search and seizure to the head of the concerned investigating or prosecuting agency in a sealed envelope.

(4) Where the investigating officer, upon information obtained during survey under section 13, is satisfied that any evidence shall be or is likely to be concealed or tampered with, he may, for reasons to be recorded in writing, enter and search the building or place where such evidence is located and seize that evidence.

17. Retention of property.

(1) Where any property has been seized under section 14 or section 15 and the investigating officer has, on the basis of material in his possession, reason to believe that such property is required to be retained for the purposes of investigation under section 9, such property may be retained for a period not exceeding ninety days from the time such property was seized:

Provided that the investigating officer shall duly inform the Court about any peculiar nature of the seized property and, where necessary, seek appropriate directions for its proper care during retention.

(2) The investigating officer, immediately after he has passed an order for retention of property for purposes of *investigation* under section 9, shall forward a copy of the order to the head of the concerned investigating or prosecuting agency in a sealed envelop.

(3) On the expiry of the period specified under sub-section (1), the property shall be returned to the person from whom such property was seized unless the Court permits retention of such property beyond the said period.

(4) The Court, before authorizing the retention of such property beyond the period specified in sub-section (1), shall satisfy itself that the property is *prima facie* property involved in money laundering

and the property is required for the purposes of investigation under section 9.

The NAO prohibits transfer of any right, title or interest or creation of a charge on property owned by those upon whom the Chairman of NAB has been initiated an inquiry or investigation shall be void (section 23).

Transfer of Property Void (Section 23)

Notwithstanding anything contained in any other law for the time being in force after the Chairman NAB has initiated investigation into the offences under this Ordinance, alleged to have been committed by an accused person, such person or any relative or associate of such person or any other person on his behalf, shall not transfer by any means whatsoever, create a charge on any movable or immovable property owned by him or in his possession, while the inquiry, investigation or proceedings are pending before the NAB or the Accountability Court; and any transfer of any right, title or interest or creation of a charge on such property shall be void:

(b) Any person who transfers, or creates a charge on property in contravention of sub-section (a) shall be punishable with rigorous imprisonment for a term, which may extend to three years and shall also be liable to fine not exceeding the value of the property involved.

Additionally, NAO provide for administrative freeze. Chairman NAB can freeze a property in question for 15 days (section 12).

Power of the Court to freeze property:

(a) The Chairman NAB or the Court trying a person for any offence as specified under this Ordinance, may, at any time, if there appear reasonable grounds for believing that the accused has committed such an offence, order the freezing of his property, movable or immovable, or part thereof, whether in his possession or in the possession of any relative, associate or person on his behalf.

(b) If the property ordered to be frozen under sub-section (a) is a debt or other movable property, the freezing may be made:

(i) by seizure; or

(ii) by appointment of receiver; or

(iii) by prohibiting the delivery of such property to the accused or to anyone on his behalf; or

(iv) by all or any of such or other methods as the Court or the Chairman NAB as the case may be, deem fit:

(c) If the property ordered to be frozen is immovable, the freezing shall, in the case of land paying revenue, be made through the Collector of the district in which the land is situated, and in all other cases-

(i) by taking possession; or

(ii) by appointment of receiver; or

(iii) by prohibiting the payment of rent or delivery of property to the accused or to any other person on his behalf; or

(iv) by all or any of such methods as the Chairman NAB or the Court may deem fit:

Provided that any order of seizure, freezing, attachment or any prohibitory order mentioned above by the Chairman NAB, shall remain in force for a period not exceeding 30 days unless confirmed by the Accountability Court, where the Reference under this Ordinance shall be sent by NAB:

Provided further that notwithstanding that the order of NAB or the Court shall be effective from the time of passing thereof or proclamation thereof in a newspaper, widely circulated and dispatch at the last known address of the accused.

(d) If the property ordered to be frozen consists of livestock or is of a perishable nature, the Chairman NAB, or the Court may, if it deems proper and expedient, order the immediate sale thereof and the proceeds of the sale may be deposited with the Chairman NAB or the Court, or as either may direct as appropriate.

(e) The powers, duties, and liabilities of a receiver, if any, appointed under this section shall be the same as those of a receiver appointed under Order-XL of the Code of Civil Procedure, 1908 (Act V of 1908).

(f) That the order of freezing mentioned above in section 12(a) to (e) shall, as the case may be; remain operative until final disposal by the Accountability Court or the Appellate Forum, notwithstanding filing of or pendency of an appeal under this Ordinance.

The Director General FMU can freeze a property for 15 days (section 6).

Section 6 Financial Monitoring Unit. (1) The Federal Government shall, by notification in the Official Gazette, establish a Financial Monitoring Unit which shall be housed in SBP or at any other place in Islamic Republic of Pakistan.

(2) The FMU shall have independent decision-making authority on day-to-day matters coming within its areas of responsibility.

(3) A Director General who shall be a financial sector specialist who shall be appointed by the Federal Government in consultation with SBP to head FMU and exercise all powers and functions of the FMU subject to the administrative oversight of the General Committee.

(4) The FMU shall exercise the following powers and perform the following functions, namely:

(a) to receive Suspicious Transaction Reports and CTRs from financial institutions and such non-financial businesses and professions as may be necessary to accomplish the objects of this Act;

(b) to analyse the Suspicious Transaction Reports and CTRs and in that respect the FMU may call for record and information from any agency or person in Islamic Republic of Pakistan related to the transaction in question. All such agencies or persons shall be required to promptly provide the requested information;

(c) to disseminate on a confidential basis, after analyzing the Suspicious Transaction Reports, and CTRs and other record, necessary information or materials to the concerned investigating or prosecuting agencies for enquiry or other action under this Act or any other applicable law;

(d) to create and maintain a data base of all Suspicious Transaction Reports and CTRs, related information and such other materials as the Director General determines are relevant to the work of the FMU and in that respect, the FMU is authorised to establish necessary analytic software and computer equipment to effectively search the database, sort and retrieve information and perform real time linkages with databases of other agencies both in and outside Islamic Republic of Pakistan as may be required from time to time;

(e) to co-operate with financial intelligence units in other countries and to make reciprocal arrangements after due administrative process to share, request and receive information relating to money laundering and financing of terrorism;

(f) to represent Pakistan at all international and regional organizations and groupings of financial intelligence units and other international groups and forums which address the offence of money laundering and other related matters;

(g) to submit to the General Committee and the National Executive Committee the reports including an annual report containing overall analysis of the Suspicious Transaction Reports and CTRs, statistics concerning the investigations and prosecutions conducted in relation to the offences of money laundering and financing of terrorism in Pakistan and recommendations on countermeasures to combat money laundering and financing of terrorism. In this behalf, FMU may call periodic reports from the investigating and prosecuting agencies in such manner as may be specified by FMU;

(h) to frame regulations in consultation with SBP and SECP for ensuring receipt of Suspicious Transaction Reports and CTRs from the financial institutions and non-financial businesses and professions with the approval of the National Executive Committee;

(i) to recommend to the regulatory authorities of reporting entities to issue regulations as considered necessary in the context of combating money laundering and financing of terrorism, including customer due diligence and ancillary record-keeping.

(j) to enter into arrangements with domestic agencies and authorities or engage a financial institution or an intermediary or such other non-financial businesses and professions or any of its officers as may be necessary for facilitating implementation of the provisions of this Act, the rules or regulations made hereunder; and

(k) to perform all such functions and exercise all such powers as are necessary for, or ancillary to, the attainment of the objects of this Act.

(5) On considering the suspicious transaction report or CTR the FMU may, if deems necessary, convey matters involving regulatory or administrative action to the concerned regulatory or administrative body for appropriate action.

(6) Subject to the regulations sanctioned by the National Executive Committee in this behalf, the **Director-General may, if there appear to be reasonable grounds to believe that a property is the property involved in money laundering, order freezing of such property, for a maximum period of fifteen days**, in any manner that he may deem fit in the circumstances.

The freezing and confiscatory provisions are supported for enabling provisions on management of the properties in some of the laws e. g in AML Act Section 11

11. Management of forfeited properties. (1) The Federal Government may, by order published in the Official Gazette, appoint as many trustees and receivers as it thinks fit to perform the functions of an Administrator.

(2) The Administrator appointed under sub-section (1) shall receive and manage the property in relation to which an order has been made under sub-section (6) of section 9 in such manner and subject to such conditions as may be prescribed.

(3) The Administrator shall also take such measures, as the Federal Government may direct, to dispose of the property which is vested in the Federal Government under section 10:

Provided that, where the property seized is perishable in nature or subject to speedy and natural decay, or when the expense of keeping it in custody is likely to exceed its value, the Administrator may sell it at once after reasonable notice to the Federal Government.

Examples of the implementation

At present Pakistan has not received any request under UNCAC for confiscation of properties under clause 54 - 2(c).

(b) Observations on the implementation of the article

The authorities of Pakistan can preserve property for confiscation in the absence of a foreign request, on the basis of the general provisions on freezing and seizure of the National Accountability Ordinance (sect. 12), the Code of Criminal Procedure (sects. 88 and 516A), and the Anti-Money-Laundering Act (sects. 6 (6), 8, 14 and 17).

Article 55. International cooperation for purposes of confiscation

Paragraph 1 of article 55

1. A State Party that has received a request from another State Party having jurisdiction over an offence established in accordance with this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:

(a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or

(b) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with articles 31, paragraph 1, and 54, paragraph 1 (a), of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, situated in the territory of the requested State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

NAB being the designated central authority under UNCAC is receiving MLA requests from foreign jurisdictions in corruption matters. As a matter of practice NAB used to authorize inquiry under NAO 1999 section 9 (reproduced as under) on the MLA requests received. Thereafter, NAB has all the power to collect information (Section 19 read with section 27). Furthermore, under section 12 the law authorizes Chairman NAB to issue freezing order in respect of a property which is expected to be alienated by any means.

The proceedings under the Accountability Law in Islamic Republic of Pakistan are criminal in nature. The mechanism for asset recovery and disposal is upon conclusion of trial. If prosecution is able to prove the case in accordance with the requirements of substantive, procedural and evidence law, the Accountability Court may, in terms of Section 10 of NAO, 1999 sentence a person and order forfeiture of assets, obtained through corruption and corrupt practices. Besides, forfeiture of assets, the court may also impose fine. Under Section 33E of National Accountability Ordinance, 1999, any fine or other sum as determined by the court can be recovered as arrears of the land revenue which concern all the aspects, to recover the ill-gotten amount in civil nature.

The National Accountability Ordinance, 1999, also provides a mechanism for plea bargain primarily aimed at recovering proceeds of corruption and assets derived out of corrupt practices. Section 25(b) of NAO provides an option of Plea Bargain; an accused can seek the benefit of plea bargain by returning the proceeds of corruption with the approval of court. The aforesaid concept is special

mechanism to facilitate recovery of assets without resorting to prosecution or completion of trial.

Section 25(b) Where at any time after the authorization of investigation, before or after the commencement of the trial or during the pendency of an appeal, the accused offers to return to the NAB the assets or gains acquired or made by him in the course, or as a consequence, of any offence under this Ordinance, the Chairman, NAB, may, in his discretion, after taking into consideration the facts and circumstances of the case, accept the offer on such terms and conditions as he may consider necessary, and if the accused agrees to return to the NAB the amount determined by the Chairman, NAB, the Chairman, NAB, shall refer the case for the approval of the Court, or as the case may be, the Appellate Court and for the release of the accused.

Under section 25(c) the assets recovered through Plea Bargain are required to be transferred to original owners within one month.

Section 25(c) The amount deposited by the accused with the NAB shall be transferred to the Federal Government or, as the case may be, a Provincial Government or the concerned bank or financial institution, company, body corporate, co-operative society, statutory body, or authority concerned within one month from the date of such deposit.

Code of Civil Procedure, 1908

13. When foreign judgment not conclusive. A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of them claim litigating under the same title except __

- (a) Where it has not been pronounced by a Court of competent Jurisdiction ;
- (b) Where it has not been given on the merits of the case;
- (c) Where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognize the law of [Pakistan] in cases in which such law is applicable;
- (d) Where the proceedings in which the Judgment was obtained are opposed to natural justice ;
- (e) Where it has been obtained by fraud ;
- (f) Where it sustains a claim founded on a breach of any law in force in [Pakistan].

14. Presumption as to foreign judgment. The Court shall presume, upon the production of any document purporting to be a certified copy of a foreign Judgment, that such Judgment was pronounced by a Court of competent Jurisdiction, unless the contrary appears on the record ; but such presumption may be displaced by proving want of jurisdiction.

ORDER XXI DEALS WITH EXECUTION OF DECREES AND ORDERS

The Mutual Legal Assistance (Criminal matters) Act 2020 has been passed by the parliament quite recently. The relevant sections of The Mutual Legal Assistance (Criminal matters) Act 2020 pertaining to this paragraph of Article 54 are as follows:

In section 2 (h), (i), (n), (p) & (q) following definitions have been given;

- (h) **“confiscation”** means deprivation of property by order of a court;
- (i) **“confiscation order”** means an order made by a court in the Islamic Republic of Pakistan or a court of a country with whom the Islamic Republic of Pakistan has entered into reciprocal agreement for the confiscation of proceeds or instrumentalities of crime or terrorist property or for the property derived or obtained directly or indirectly from the offence of money laundering or property of corresponding value whether or not the order is based on criminal conviction;

(n) "Instrumentalities of crime" means any property,

(i) used in, or in connection with, the commission of a criminal offence; or

(ii) for which there are reasonable grounds of suspecting that the said property may be used in, or employed in connection with, the commission of a criminal offence; or

(iii) whether the property is located or the offence is committed within or outside Pakistan;

(p) "proceeds of crime" means any property situated within or outside Pakistan derived from or obtained through commission of a criminal offence, committed within or outside Pakistan;

(q) "property" means property or assets of any description, movable or immovable, corporeal or incorporeal, tangible or intangible, situated within or outside Pakistan;

Section 7 Mutual legal assistance request by Pakistan.

A request for mutual legal assistance by the central authority to a country subject to the applicable laws of such country may comprise one or more of the following matters, namely:

(e) transmit to Pakistan any evidence, documents or articles, properties or proceeds realized from the disposal of properties;

Section 8 Foreign request for assistance.

(1) Where a country makes a request to the Islamic Republic of Pakistan for mutual legal assistance, the central authority may approve mutual legal assistance for similar purposes as those specified in section 7 to the country in relation to investigations commenced or proceedings instituted in that country.

Section 13 Foreign request to the Islamic Republic of Pakistan for freezing or seizure orders.

(1) Where the central authority approves a request of a country pursuant to section 10 to restrain dealings in any properties, some or all of which are located in Pakistan, the central authority may apply to the court for a freezing or seizure order.

(2) The court to which an application is made under sub-section (1) may after providing the person with the opportunity of being heard issue a freezing or seizure order, where the court is satisfied that there are reasonable grounds to believe that-

(a) an offence has been committed by a person under the laws of the requesting country' which, if committed in Pakistan, also constitutes a criminal offence in Pakistan;

(b) an investigation or proceedings have commenced in the country relating to that offence;

(c) properties derived by the person, by himself or any other person on his behalf, from the commission of the offence are located in Pakistan: and

(d) an order has been made in the country having the effect of confiscating such properties

(3) Where a competent court of requesting country has passed a freezing or seizure order, or has passed any amendment in respect thereof, the central authority shall apply to have the same registered with the court and the freezing or seizure order, or the amendment thereof, as the case may be, shall not be effective in Pakistan until it is so registered. Where a foreign freezing or seizure order is registered in accordance with this section, a copy of any amendments made in the order of the country, whether before or after registration, may be registered in the same manner as the order was registered, but shall not have effect for the purpose of this Act until they are so registered.

(4) The court shall, on application by the central authority, cancel the registration of a foreign freezing or seizure order, if it appears that the order has ceased to have effect in that country.

(5) Subject to sub-section (6), where the foreign freezing or seizure order is a facsimile of a duly authenticated foreign order, or amendment made in such order, the facsimile shall be regarded for the purpose of this Act as the duly authenticated foreign order.

(6) Registration effected by means of a facsimile shall cease to have effect at the end of a period of fourteen days commencing on the date of registration, unless a duly authenticated original order has been registered by that time.

Section 14. Foreign confiscation order.

(1) Where the central authority approves a request of a country for enforcement of a confiscation order in relation to any property which is believed on reasonable ground to be located in Pakistan, the central authority may apply to the court for enforcement of the confiscation order against such property.

(2) The court shall issue adequate notice to all persons appearing to have an interest in the property against which the confiscation order may be executed.

(3) Any person with an interest in the property against which the application for execution of the confiscation order has been filed may, within thirty days of receiving notice under sub-section (2), make an application objecting to the confiscation.

(4) The court to which an application is made under sub-section (1) may order to enforce the foreign confiscation order, where it is satisfied that there are reasonable grounds to believe that -

(a) an offence has been committed by a person under the laws of the requesting country which, if committed in Pakistan, also constitutes a criminal offence in Pakistan;

(b) the foreign confiscation order has been made in the country in relation to the offence referred to in clause (a);

(a) the confiscation order is in force in the requesting country and is not subject to appeal;

(b) the properties specified in the confiscation order are located in Pakistan; and

(c) the person, whose property is the subject of the confiscation order, had appeared or participated in the proceedings or intentionally refused to do so despite having notice of the proceedings which culminated into such confiscation order being passed.

The central authority may enter into arrangements with the requesting country for transfer to the central authority the whole or part of any property, proceeds or instrumentalities of crime confiscated in Pakistan in response to a request for the enforcement of a confiscation order pursuant to this Act.

Section 15. Request to recover foreign fines. - (1) Where the central authority approves a request from a country to enforce payment of a fine imposed by a court of that country, it shall make an application to the court to enforce payment of the fine in the manner as if the fine has been imposed by a court in Pakistan.

Explanation. for the purpose of this section, the expression "fine" shall include any pecuniary penalty determined by a foreign court to represent the value of any property, benefit, advantage, obtained or derived directly or indirectly as a result of the commission of an offence.

(2) The court may pass the order for enforcement of fine, if it is satisfied that -

(a) the foreign order is in force in that country and is not subject to appeal; and

(b) where the person, who is the subject of the foreign order, had appeared or participated in the proceedings or intentionally refused to do so despite having notice of the proceeding, which culminated into such confiscation order being passed.

(3) No proceedings under sub-section (1) shall be instituted after the expiry of three years from the date when the fine was imposed

Examples of the implementation

Till date Islamic Republic of Pakistan has not received any request from foreign jurisdiction for confiscation of property, however, Pakistan has requested / received following number of mutual legal assistance requests for the last seven years. Moreover, National Accountability Bureau has authorized **nine** inquiries on incoming MLAs wherein information about corruption and corrupt practices was available. Four inquiries/ investigations have been completed whereas **five** inquiries are at advance level, i.e. under trial in court, at investigation stage. NAB has recovered the looted amount in **one inquiry** through Voluntary Return / Plea Bargain and returned the amount to the foreign jurisdiction whereas in two inquiries amount was returned directly by accused persons to foreign jurisdictions due to involvement of NAB.

Recoveries sent Abroad

a) Direct Recoveries sent abroad

The National Accountability Bureau has recovered **Rs. 198203490** (approximately **US \$ 2255044**) from accused persons in Pakistan and returned the amount. Break up wise details are provided below in a tabulated form:

S #	Case	Amount Recovered and disbursed US \$	Amount Recovered and disbursed to foreign authorities (Pak Rupees)
1.	STR Case ACR No. 36/2008- State Vs. Mr. Farzand Naseem and others	US \$ 2255044.37	Rs. 198203490.89
TOTAL		US \$ 2255044.37	Rs. 198203490.89

b) Indirect Recoveries Sent abroad

The National Accountability Bureau has registered following cases on the request of foreign authorities. After registration of cases accused persons agreed to return looted amounts to foreign authorities. Break up wise details are provided below in a tabulated form:

Sr #	Case Title	Total Amount Recovered in Pakistani Rupees (Rs.)	Total Amount Recovered in US \$	Amount Disbursed
1.	Inquiry against Sponsors of Rafi Peer	Rs. 109 Million/- or Rs.	US \$ 1058252.4 /- (@ Rs. 103 in	Rs. 109 Million/- US

	Theater Workshop (RPTW) and Pakistan Children's Television (PCTV) and Others.	109,000,000/-	December 2016)	\$ 1058252.4 /-
2.	Inquiry against Gillson Live Stock & Ostrich Breeders / Gillson Chemical and Marbles, Lahore and Others.	Rs. 31,200,000/-	US \$ 200,000/- (@ Rs. 156 in September 2019)	Rs. 31,200,000/- US \$ 200,000/-

The Mutual Legal Assistance (Criminal matters) Act 2020 has come into force recently therefore no more further examples can be provided at the moment.

(b) Observations on the implementation of the article

As described under article 54 above, the Mutual Legal Assistance (Criminal Matters) Act (sect. 14) allows for the enforcement of confiscation orders issued by a court of a foreign State on the basis of a reciprocal agreement and on the condition of dual criminality, whether or not the order is based on a criminal conviction (sect. 2 (i)). The authorities of Pakistan may also obtain a domestic conviction-based order of confiscation on the basis of a foreign request (sect. 8 (d) of the Mutual Legal Assistance (Criminal Matters) Act).

Paragraph 2 of article 55

2. Following a request made by another State Party having jurisdiction over an offence established in accordance with this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this article, by the requested State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

The National Accountability Ordinance (NAO) 1999, deals with Asset Recovery and international / regional cooperation which are emphasized in its main text as well as in its Preamble. These are reproduced as under:

“An Ordinance to provide for the setting up of a National Accountability Bureau so as to eradicate corruption and corrupt practices and hold accountable all those persons accused of such practices and matters ancillary thereto;

WHEREAS it is expedient and necessary to provide for effective measures for the detection, investigation, prosecution and speedy disposal of cases involving corruption, corrupt practices, [misuse or abuse]of power [or authority], misappropriation of property, taking ofkickbacks, commissions and for matters connected and ancillary or incidental thereto;

AND WHEREAS there is an emergent need for the recovery of outstanding amounts from those

persons who have committed default in the repayment of amounts to Banks, Financial Institutions, [Governmental agencies]and other agencies;

AND WHEREAS there is a grave and urgent need for the recovery of state money and other assets from those persons who have misappropriated or removed such [money or]assets through corruption, corrupt practices and misuse of power or authority;

[AND WHEREAS there is an urgent need to educate the society about the causes and effects of corruption and corrupt practices and to implement policies and procedures for the prevention of corruption in the society;]

[AND WHEREAS there is an increased international awareness that nations should co-operate in combating corruption and seek, obtain or give mutual legal assistance in matters concerning corruption and for matters connected, ancillary or incidental thereto;]

AND WHEREAS it is necessary that a National Accountability Bureau be set up so as to achieve the above aims;”

Section 21 of NAO, 1999: International Cooperation Request for Mutual Legal Assistance

21. -: The Chairman NAB or any officer authorized by the Federal Government may request a Foreign State to do [any or all of] the following acts in accordance with the law of such State:

- (a) have evidence taken, or documents or other articles produced;
- (b) obtain and execute search warrants or other lawful instruments authorizing search for things relevant to investigation or proceedings in Pakistan believed to be located in that State, and if found, seize them;
- (c) freeze assets, by whatever processes are lawfully available in that State, to the extent to which the assets are believed on reasonable grounds to be situated in that State;
- (d) confiscate articles and forfeit assets to the extent to which the articles or assets, as the case may be, are believed to be located in that State;
- (e) transfer to Pakistan any such evidence, documents, things articles, assets or proceeds realized from the disposal of such articles or assets 9*
- (f) transfer in custody to Pakistan a person detained in [that] state who consents to assist Pakistan in the relevant investigation or proceedings;
- (g) notwithstanding anything contained in the Qanun-e-Shahadat Order 1984 (P.O. 10 of 1984) or any other law for the time being in force all evidence, documents or any other material transferred to Pakistan by a Foreign Government shall be receivable as evidence in legal proceedings under this Ordinance [; and]
- [(h) notwithstanding anything to the contrary contained hereinabove, the Chairman NAB may, on such terms and conditions as he deems fit, employ any person or organization, whether in Pakistan or abroad, for detecting, tracing or identifying assets acquired by an accused in connection with an offence under this Ordinance, and secreted or hoarded abroad, or for recovery of and repatriation to Pakistan of such assets

In the absence of stand-alone law on Mutual Legal Assistance (on criminal matters) in Islamic Republic of Pakistan, NAB being central authority under UNCAC is receiving MLA requests from foreign jurisdictions in corruption matters. As a matter of practice NAB used to authorize inquiry under NAO 1999 section 9 (reproduced as under) on the MLA requests received. Thereafter NAB has all the power to collect information (Section 19 read with section 27) for to identify or trace properties. Furthermore, under section 12(reproduced as under), the law authorizes Chairman NAB to issue freezing order in respect of a property which is expected to be alienated by any means.

Relevant sections are reproduced as under:

Section 9 of NAO, 1999 (Corruption and Corrupt Practices)

9 (a) A holder of a public office, or any other person, is said to commit or to have committed the offence of corruption and corrupt practices-

(i) if he accepts or obtains from any person or offers any gratification directly or indirectly, other than legal remuneration, as a motive or reward such as is specified in section 161 of the Pakistan Penal Code (Act XLV of 1860) for doing or for-bearing to do any official act, or for showing or for-bearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person; or

(ii) if he accepts or obtains or offers any valuable thing without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or likely to be, concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with his official functions or [from] any person whom he knows to be interested in or related to the person so concerned; or

(iii) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use, or for the use of any other person, any property entrusted to him, or under his control, or willfully allows any other person so to do; or

(iv) if he by corrupt, dishonest, or illegal means, obtains or seeks to obtain for himself, or for his spouse or dependents or any other person, any property, valuable thing, or pecuniary advantage; or

(v) if he or any of his dependents or benamidar owns, possesses, or has [acquired] right or title in any ["assets or holds irrevocable power of attorney in respect of any assets] or pecuniary resources disproportionate to his known sources of income, which he cannot [reasonably] account for [or maintains a standard of living beyond that which is commensurate with his sources of income]; or

(vi) if he misuses his authority so as to gain any benefit or favour for himself or any other person, or [renders or attempts to render] [or willfully fails to exercise his authority to prevent the grant, or rendition of any undue benefit or favour which he could have prevented by exercising his authority];

(vii) if he has issued any directive, policy, or any SRO (Statutory Regulatory Order) or any other order which grants or [attempts to grant] any [undue] concession or benefit in any taxation matter or law or otherwise so as to benefit himself or any relative or associate or a benamidar [or any other person]

(viii) if he commits an offence of willful default, {; or }

(ix) if he commits the offence of cheating as defined in section 415 of the Pakistan Penal Code, 1860 (Act XLV of 1860), and thereby dishonestly induces members of the public at large to deliver any property including money or valuable security to any person; or

(x) if he commits the offence of criminal breach of trust as defined in section 405 of the Pakistan Penal Code, 1860 (Act XLV of 1860) with regard to any property including money or valuable security entrusted to him by members of the public at large;

Section 19 of NAO, 1999 Power to call for information

The Chairman NAB or [an officer of the NAB duly authorised by him] may, during the course of an inquiry [or investigation] [of an offence under this Ordinance]:

(a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Ordinance or any rule or order made thereunder.

(b) require any person to produce or deliver any document or thing useful or relevant to the inquiry

[or investigation];

(c) examine any person acquainted with the facts and circumstances of the case;

(d) require any bank or financial institution, notwithstanding anything contained in any other law for the time being in force, to provide any information relating to any person whatsoever, including copies of entries made in a bank's or a financial institution's books such as ledgers, day books, cash books and all other books including record of information and transactions saved in electronic or digital form, and the keepers of such books or records shall be obliged to certify the copies in accordance with law [; and]

(e) where there is reasonable suspicion that any person is involved in or is privy to an offence under this Ordinance, the Chairman NAB may, with the prior approval in writing of the High Court concerned, direct that surveillance of that person may be carried out through such means as may be necessary in the facts and circumstances of the case and the Chairman NAB, may in this regard

seek the aid and assistance of any [Governmental] agency and the information so collected may be used as evidence in the trial under this Ordinance:

Provided that the copies obtained or information received or evidence collected under clauses (d) and (e) shall be [kept] confidential and shall not be used for any purpose other than for legal proceedings under this Ordinance.

Section 27 of NAO, 1999: Power to Seek Assistance

The Chairman NAB, [or an officer of the NAB duly authorized by him,] shall have the power to seek full and complete assistance and call for all or any documents and information relevant to or in connection with any matter or 2[inquiry or investigation] pending before the NAB, [or disposal of any property surrendered to or seized by the NAB,] from any department of the Federal Government, Provincial Government, local authority, bank, financial Institution, person or any authority and institution or department in the public sector or the private sector as he may deem it fit and proper to demand or require, provided that in any case in which a question of secrecy is involved or is raised at any time, the [Chairman NAB's] decision shall be final.

Section 12 of NAO, 1999:

(a) The Chairman NAB or the Court trying [an accused] for any offence as specified under this Ordinance, may, at any time, if there appear reasonable grounds for believing that the accused has committed such an offence, order the freezing of his property, or part thereof, whether in his possession or in the possession of any relative, associate or person on his behalf.

(b) If the property ordered to be frozen under sub-section (a) is a debt or other movable property, the freezing may be made:

(i) by seizure; or

(ii) by appointment of receiver; or

(iii) by prohibiting the delivery of such property to the accused or to anyone on his behalf; or

(iv) by all or any of such or other methods as the Court or the Chairman NAB as the case may be, deem fit.

(c) If the property ordered to be frozen is immovable, the freezing shall, in the case of land paying revenue, be made through the Collector of the district in which the land is situated, and in all other cases-

(i) by taking possession; or

(ii) by appointment of receiver; or

(iii) by prohibiting the payment of rent or delivery of property to the accused or to any other person on his behalf; or

(iv) by all or any of such methods as the Chairman NAB or the Court may deem fit:

Provided that any order of seizure, freezing, attachment or any prohibitory order mentioned above by the Chairman NAB, shall remain in force for a period not exceeding [fifteen] days unless confirmed by the Court, where the Reference under this Ordinance shall be sent by [the Chairman] NAB:

Provided further that notwithstanding [anything to the contrary contained herein,] that the order of [Chairman] NAB or the Court shall be effective from the time of passing thereof or proclamation thereof in a newspaper, widely circulated and dispatch at the last known address of the accused [either by registered post A.D. or courier service or electronic media as the [Court] may deem proper having regard to the facts and circumstances of the case.]

(d) If the property ordered to be frozen consists of livestock or is of a perishable nature, the Chairman NAB, or the Court may, if it deems proper and expedient, order the immediate sale thereof and the proceeds of the sale may be deposited with the Chairman NAB or the Court, or as either may direct as appropriate.

(e) The powers, duties, and liabilities of a receiver, if any, appointed under this section shall be the same as those of a receiver appointed under Order -XL of the Code of Civil Procedure, 1908 (Act V of 1908).

(f) The order of freezing mentioned in sub-sections 'a' to 'e' shall remain operative until the final disposal of the case by the Court, and in the event of the acquittal of the accused, shall continue to remain operative for a period of ten days after receipt of certified copy of the order of acquittal <<http://132.147.0.6/site/Downloads/NAO.asp>>[or release] by NAB, whereafter it shall be subject to an order by the court in which an appeal, if any, is filed.

In order to preserve the assets, a special provision is available in Accountability Law i.e Prohibition to transfer property by an accused is contained in Section 23 which is reproduced as under:

Section 23 of NAO, 1999: Transfer of Property Void

(a) Notwithstanding anything contained in any other law for the time being in force after the Chairman NAB has initiated [an inquiry or] investigation into [any offence] under this Ordinance, alleged to have been committed by an accused person, [accused] person or any relative or associate of [accused] person or any other person on his behalf, shall not transfer by any means whatsoever, [or] create a charge on any property owned by him or in his possession, while the inquiry, investigation or proceedings are pending before the NAB or the Court; and any transfer of any right; title or interest or creation of a charge on such property shall be void.

(b) Any person who transfers, or creates a charge on property in contravention of sub-section (a) shall be punishable with rigorous imprisonment for a term, which may extend to three years and shall also be liable to fine not exceeding the value of the property involved.

[Provided that such transfer of any right, title or interest or creation of a charge on such property shall not be void if made with the approval of the Court, subject to such terms and conditions as the Court may deem fit.]

The mechanism for asset recovery at domestic level is upon conclusion of trial and if the prosecution is able to prove the case in accordance with the requirements of substantive, procedural and evidence law, the Accountability Court may, in terms of Section 10 of NAO 1999 (Reproduced as under) sentence a person and order forfeiture of assets, obtained through corruption and corrupt

practices. Besides, forfeiture of assets, the court may also impose fine.

Section 10 of NAO, 1999: Punishment for corruption and corrupt practices:

10. (a) [A holder of public office, or any other person who commits the offence of corruption and corrupt practices shall be punishable with [rigorous] imprisonment for a term which may extend to 14 years [and with fine] and such of the assets and [pecuniary resources] of such [holder of public office or person, as are] found to be disproportionate to the known sources of his income or which [are] acquired by money obtained through corruption and corrupt practices whether in his name or in the name of any of his dependents, or benamidars shall be forfeited to the appropriate Government, or the concerned bank or financial institution as the case may be.]

(b) The offences specified in the Schedule to this Ordinance shall be punishable in the manner specified therein.

(c) The Federal Government may, by notification in the official Gazette, amend the Schedule so as to add any entry thereto or modify or omit any entry therein

If accused failed to pay the amount due to him then under section 33E of Accountability Law, any fine or other sum as determined by the court can be recovered as arrears of the land revenue which concern all the aspects, to recover the ill-gotten amount in civil nature as well.

33E. Recovery of amount of fines, etc., as arrears of land revenue. Any fine or other sum due under this Ordinance, or as determined to be due by a Court, shall be recoverable as arrears of land revenue.]

The Mutual Legal Assistance (Criminal matters) Act 2020 has been passed by the parliament quite recently. The relevant sections of The Mutual Legal Assistance (Criminal matters) Act 2020 pertaining to this paragraph of Article 55 are as follows:

Relevant sections of MLA Act 2020 are 7 read with section 8 and 13 are reproduced as under:

Section 7 Mutual legal assistance request by Pakistan. A request for mutual legal assistance by the central authority to a country subject to the applicable laws of such country may comprise one or more of the following matters, namely:

- (a) inquire about the location and identification of witnesses, suspects, perpetrators and offenders;
 - (b) have evidence taken or documents or other articles produced;
 - (c) obtain search warrants or other lawful instruments authorizing a search for evidence relevant to investigations or proceedings in Pakistan, located or as permissible under the domestic law of that country believed to be located in that country and if found, to seize them as permissible under the domestic law of that country;
 - (d) freeze or seize properties that are subject to the proceedings being undertaken in Pakistan in a criminal matter in accordance with the relevant legal process in that country to the extent to which the properties are believed on reasonable grounds to be allocated in that country;
 - (e) transmit to Pakistan any evidence, documents or articles, properties or proceeds realized from the disposal of properties;
 - (f) transfer in custody to Pakistan a person in foreign country who consented to assist Pakistan in the relevant investigation or proceedings
- (a) effect service of judicial documents;
 - (b) identify or trace proceeds or instrumentalities of crime or properties for evidentiary purpose;
 - (c) facilitate the voluntary appearance of persons required in relation to any existing proceedings

in Pakistan;

(d) provide original or certified copies of relevant documents and records, including government, bank, financial, corporate or business records; and

(e) provide any other type of assistance that is not contrary to the domestic law of that country.

Section 8 Foreign request for assistance. (1) Where a country makes a request to the Islamic Republic of Pakistan for mutual legal assistance, the central authority may approve mutual legal assistance for similar purposes as those specified in section 7 to the country in relation to investigations commenced or proceedings instituted in that country.

(2) The request under sub-section (1), except as may otherwise be provided for in the domestic law of the country from which information is sought, shall be made out in conformity with the form, as specified by the central authority, which form shall include the following, namely:

(a) the name of the appropriate authority or such other authority concerned with the criminal matter to which the request relates;

(b) a description of nature of the criminal matter and a statement setting out a summary of relevant facts and law;

(c) the description of the purpose of the request and the nature of assistance being sought;

(d) in the case of request to freeze, seize or confiscate assets located in Pakistan, be accompanied with the details of the criminal offence, particulars of any investigation or proceedings commenced in respect of that offence and a copy of any relevant freezing, seizure or confiscation order of the court;

(e) details of any procedure that the country wishes to be followed by Pakistan in giving effect to the request, particularly in the case of a request to take evidence, as far as it is not contrary to the laws of Pakistan;

(f) a statement setting out any requirements of the country concerning any confidentiality relating to the request and the reasons thereof;

(g) details of the period within which the country wishes the request to be complied with;

(h) details where applicable, regarding the grounds for believing that the relevant properties to be traced, frozen or seized or confiscated, are located in Pakistan; and

(i) any other information that may assist in giving effect to the request.

Section 13 Foreign request to the Islamic Republic of Pakistan for freezing or seizure orders.

(1) Where the central authority approves a request of a country pursuant to section 10 to restrain dealings in any properties, some or all of which are located in Pakistan, the central authority may apply to the court for a freezing or seizure order.

(2) The court to which an application is made under sub-section (1) may after providing the person with the opportunity of being heard issue a freezing or seizure order, where the court is satisfied that there are reasonable grounds to believe that-

(a) an offence has been committed by a person under the laws of the requesting country' which, if committed in Pakistan, also constitutes a criminal offence in Pakistan;

(b) an investigation or proceedings have commenced in the country relating to that offence;

(c) properties derived by the person, by himself or any other person on his behalf, from the commission of the offence are located in Pakistan: and

(d) an order has been made in the country having the effect of confiscating such properties

(3) Where a competent court of requesting country has passed a freezing or seizure order, or has passed any amendment in respect thereof, the central authority shall apply to have the same registered with the court and the freezing or seizure order, or the amendment thereof, as the case may be, shall not be effective in Pakistan until it is so registered. Where a foreign freezing or seizure order is registered in accordance with this section, a copy of any amendments made in the order of the country, whether before or after registration, may be registered in the same manner as the order was registered, but shall not have effect for the purpose of this Act until they are so registered.

(4) The court shall, on application by the central authority, cancel the registration of a foreign freezing or seizure order, if it appears that the order has ceased to have effect in that country.

(5) Subject to sub-section (6), where the foreign freezing or seizure order is a facsimile of a duly authenticated foreign order, or amendment made in such order, the facsimile shall be regarded for the purpose of this Act as the duly authenticated foreign order.

Registration effected by means of a facsimile shall cease to have effect at the end of a period of fourteen days commencing on the date of registration, unless a duly authenticated original order has been registered by that time.

Examples of the implementation

At present Pakistan has not received any request under UNCAC for confiscation of properties.

(b) Observations on the implementation of the article

The National Accountability Ordinance 1999 (NAO), the Code of Criminal Procedure 1898 (CrPC), the Federal Investigation Agency Act 1974 (FIA), and the Anti-Money Laundering Act 2010 (AMLA) provide for a wide range of investigative measures available for the tracing and freezing of criminal proceeds and instrumentalities for the purpose of confiscation, which are also available in the context of mutual legal assistance.

Paragraph 3 of article 55

3. The provisions of article 46 of this Convention are applicable, mutatis mutandis, to this article. In addition to the information specified in article 46, paragraph 15, requests made pursuant to this article shall contain:

(a) In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property to be confiscated, including, to the extent possible, the location and, where relevant, the estimated value of the property and a statement of the facts relied upon by the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law;

(b) In the case of a request pertaining to paragraph 1 (b) of this article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested, a statement specifying the measures taken by the requesting State Party to provide adequate notification to bona fide third parties and to ensure due process and a statement that the confiscation order is final;

(c) In the case of a request pertaining to paragraph 2 of this article, a statement of the facts relied upon by the requesting State Party and a description of the actions requested and, where available, a legally admissible copy of an order on which the request is based.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

Government of Islamic Republic of Pakistan used to send Mutual Legal Assistance requests in accordance with article 46 of UNCAC specifying complete case details and details of properties about which information is required. As a matter of practice, Islamic Republic of Pakistan avoid request for assets tracing. Government of Islamic Republic of Pakistan has forwarded only one request to foreign jurisdiction for freezing / confiscation wherein accountability court convicted accused and ordered for confiscation of his properties held abroad. Data for last seven years MLA requests forwarded to foreign jurisdictions has been given in article 54-1(a).

The Mutual Legal Assistance (Criminal matters) Act 2020 has been passed by the parliament quite recently. The relevant sections of The Mutual Legal Assistance (Criminal matters) Act 2020 pertaining to this paragraph of Article 55 are as follows:

In section 2 (n) following definition has been given;

(n) "Instrumentalities of crime" means any property,

- (i) used in, or in connection with, the commission of a criminal offence; or
- (ii) for which there are reasonable grounds of suspecting that the said property may be used in, or employed in connection with, the commission of a criminal offence; or
- (iii) whether the property is located or the offence is committed within or outside Pakistan;

Relevant section of MLA Act 2020 is 8 and is reproduced as under:

Section 8 Foreign request for assistance. (1) Where a country makes a request to the Islamic Republic of Pakistan for mutual legal assistance, the central authority may approve mutual legal assistance for similar purposes as those specified in section 7 to the country in relation to investigations commenced or proceedings instituted in that country.

(2) The request under sub-section (1), except as may otherwise be provided for in the domestic law of the country from which information is sought, shall be made out in conformity with the form, as specified by the central authority, which form shall include the following, namely:

- (a) the name of the appropriate authority or such other authority concerned with the criminal matter to which the request relates;
- (b) a description of nature of the criminal matter and a statement setting out a summary of relevant facts and law;
- (c) the description of the purpose of the request and the nature of assistance being sought;
- (d) in the case of request to freeze, seize or confiscate assets located in Pakistan, be accompanied with the details of the criminal offence, particulars of any investigation or proceedings commenced in respect of that offence and a copy of any relevant freezing, seizure or confiscation order of the court;
- (e) details of any procedure that the country wishes to be followed by Pakistan in giving effect to the request, particularly in the case of a request to take evidence, as far as it is not contrary to the laws of Pakistan;

- (f) a statement setting out any requirements of the country concerning any confidentiality relating to the request and the reasons thereof;
- (g) details of the period within which the country wishes the request to be complied with;
- (h) details where applicable, regarding the grounds for believing that the relevant properties to be traced, frozen or seized or confiscated, are located in Pakistan; and
- (i) any other information that may assist in giving effect to the request.

Examples of the implementation

Data for last seven years MLA requests forwarded to foreign jurisdictions has been given in article 54-1(a).

(b) Observations on the implementation of the article

The Mutual Legal Assistance (Criminal Matters) Act (sect. 8) specifies the information to be included in mutual legal assistance requests sent to Pakistan.

Paragraph 4 of article 55

4. The decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral agreement or arrangement to which it may be bound in relation to the requesting State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

At present all incoming Mutual Legal Assistance requests are entertained in accordance with domestic laws of Islamic Republic of Pakistan as are mentioned in Article 51. At present no specific case related bilateral or multilateral agreement signed, however, following Memorandum of Understandings (MoUs) have been signed with various agencies for effective cooperation at international level in corruption matters.

- Memorandum of Understanding with Ministry of Supervision (Mos), Government of The People's Republic of China
- Memorandum of Understanding with Accounts chamber of Russian Federation,
- Memorandum of Understanding with Australian Federal Police (AFP)

Memorandum of Understandings (MoUs) have been initiated with relevant Anti-Corruption Agencies of following countries and are under process at various levels of approval:

- Federal Bureau of Investigation of the United States of America
- Malaysian Anti-Corruption Commission (MACC)
- United Kingdom (UK)
- Ukraine

Tajikistan.

(b) Observations on the implementation of the article

As noted under article 51, Pakistan can cooperate in the area of asset recovery on the basis of reciprocity and regardless of the existence of a treaty (sect. 3 (2) of the Act), with the exception of the enforcement of foreign confiscation orders (sect. 2 (i) of the Act).

The same set of measures and procedures that are available in domestic criminal proceedings, including those relating to the tracing, freezing, seizure and confiscation of property, are available in the context of such cooperation (sect. 1.4 (c) of the mutual legal assistance guidelines).

The MLA Act regulates the procedure for rendering and soliciting mutual legal assistance in criminal matters by Pakistan (sec. 3(1), MLA Act). Pursuant to section 16 of the MLA Act, “a request for assistance shall be executed in accordance with any procedure specified in the request, unless such execution is contrary to the provisions of any law or the Constitution of the Islamic Republic of Pakistan”.

Paragraph 5 of article 55

5. Each State Party shall furnish copies of its laws and regulations that give effect to this article and of any subsequent changes to such laws and regulations or a description thereof to the Secretary-General of the United Nations.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

Relevant laws along with links pertaining to assets recovery in Islamic Republic of Pakistan have been mentioned in Article 51 which can be accessed.

(b) Observations on the implementation of the article

Pakistan has furnished copies of its laws during the course of the review.

Paragraph 6 of article 55

6. If a State Party elects to make the taking of the measures referred to in paragraphs 1 and 2 of this article conditional on the existence of a relevant treaty, that State Party shall consider this Convention the necessary and sufficient treaty basis.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

Islamic Republic of Pakistan is providing information on the basis of UNCAC and does not made taking any measure conditional however, after promulgation of Mutual Legal Assistance Act 2020 **Section 17 Refusal of Requests for Assistance** deals with this Article and is reproduced as under:

Section 17 Refusal of request for assistance. (1) A request for mutual legal assistance to Pakistan under this Act may be refused by the central authority if,

- (a) granting the request is prejudicial to the sovereignty, security, public interest or national interests of Pakistan;
- (b) there are reasonable grounds to believe that the request has been made for the purpose of punishing a person by reason of his race, sex, sexual orientation, religion, nationality, ethnic origin, language, colour, age, mental or physical disability or political reason;
- (c) the provision of assistance is prejudicial to an investigation or ongoing proceedings in Pakistan, the execution of the request for assistance may be postponed until the finalization of the investigation or proceedings;
- (d) the provision of the assistance imposes an excessive burden on the resources of the Federal, Provincial or local authorities of Pakistan;
- (e) the authorities of Pakistan are prohibited by the domestic law or order of a court from carrying out any action requested with regard to any similar offence, had it been subject to domestic investigation, prosecution or judicial proceedings;
- (f) it would be contrary to the laws of Pakistan; or
- (g) the request is in violation of international conventions of human rights.

(2) Notwithstanding anything contained in sub-section (1) or the provisions of any other law for the time being in force in Pakistan, assistance under this Act shall not be refused,

- (a) on the ground of bank secrecy: or
- (b) on the sole ground that the offence for which assistance is sought is also considered to involve fiscal matters.

Examples of the implementation

Till date information on Incoming Mutual Legal assistance requests have been provided without imposing any condition.

(b) Observations on the implementation of the article

Pakistan does not make the taking of the measures referred to in paragraphs 1 (a) and 2 of this article conditional on the existence of a relevant treaty. Pakistan does however require a reciprocal agreement for the enforcement of confiscation orders issued by a court of a foreign State (sec. 2(i) of the Mutual Legal Assistance (Criminal Matters) Act).

It is recommended that Pakistan consider the Convention as the necessary and sufficient treaty basis for the enforcement of confiscation orders issued by a court of another State party, in the absence of a reciprocal agreement.

Paragraph 7 of article 55

7. Cooperation under this article may also be refused or provisional measures lifted if the requested State Party does not receive sufficient and timely evidence or if the property is of a de minimis value.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

Till date Islamic Republic of Pakistan received 26 Mutual Legal Assistance requests from foreign jurisdictions. All the MLA requests have been entertained and replied. Islamic Republic of Pakistan has not refused any request till date.

The Mutual Legal Assistance (Criminal matters) Act 2020 has been passed by the parliament quite recently. In newly Mutual Legal Assistance (Criminal Matters) Act, 2020 section 17 has clearly stated that which Mutual Legal Assistance requests would not be entertained. Section 17 is reproduced as under

Section 17 Refusal of request for assistance.

(1) A request for mutual legal assistance to Pakistan under this Act may be refused by the central authority if,

(a) granting the request is prejudicial to the sovereignty, security, public interest or national interests of Pakistan;

(b) there are reasonable grounds to believe that the request has been made for the purpose of punishing a person by reason of his race, sex, sexual orientation, religion, nationality, ethnic origin, language, colour, age, mental or physical disability or political reason;

(c) the provision of assistance is prejudicial to an investigation or ongoing proceedings in Pakistan, the execution of the request for assistance may be postponed until the finalization of the investigation or proceedings;

(d) the provision of the assistance imposes an excessive burden on the resources of the Federal, Provincial or local authorities of Pakistan;

(e) the authorities of Pakistan are prohibited by the domestic law or order of a court from carrying out any action requested with regard to any similar offence, had it been subject to domestic investigation, prosecution or judicial proceedings;

(f) it would be contrary to the laws of Pakistan; or

(g) the request is in violation of international conventions of human rights.

(2) Notwithstanding anything contained in sub-section (1) or the provisions of any other law for the time being in force in Pakistan, assistance under this Act shall not be refused,

(a) on the ground of bank secrecy; or

(b) on the sole ground that the offence for which assistance is sought is also considered to involve fiscal matters.

Examples of the implementation

Not applicable

(b) Observations on the implementation of the article

The Mutual Legal Assistance (Criminal Matters) Act (sect. 8) specifies the information to be included in mutual legal assistance requests sent to Pakistan; it does not provide for the possibility of refusing a request if the property is of a *de minimis* value.

Paragraph 8 of article 55

8. Before lifting any provisional measure taken pursuant to this article, the requested State Party shall, wherever possible, give the requesting State Party an opportunity to present its reasons in favour of continuing the measure.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

Islamic Republic of Pakistan has not denied any Mutual Legal Assistance request received from foreign jurisdictions. It is general principle that whenever any request for Mutual Legal Assistance will be denied, reasons / queries will be communicated to foreign jurisdiction. If reasonable replies have been given by foreign jurisdiction, then request will be entertained.

(b) Observations on the implementation of the article

The Mutual Legal Assistance (Criminal Matters) Act does not prevent Pakistan from inviting the requesting State to present its reasons in favour of continuing provisional measures before it lifts them, if such a case arises.

Paragraph 9 of article 55

9. The provisions of this article shall not be construed as prejudicing the rights of bona fide third parties.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

The Mutual Legal Assistance (Criminal matters) Act 2020 has been passed by the parliament quite recently. In newly Mutual Legal Assistance (Criminal Matters) Act, 2020 section 9 has clearly stated the rights of

Section 9 Foreign request for an evidence gathering order or search warrant. (1) Notwithstanding anything contained in any other law for the time being in force, where the central authority approves the request of a country pursuant to section 8 for die following purposes, namely:

- (a) taking of a statement or testimony from a person; or
- (b) production of documentary or other evidence in Pakistan: or
- (c) identification of a person, property or record,

the central authority may apply to the court for a search warrant or any evidence gathering order, as the case may be.

(2) The court, to which an application is made under sub-section (1), may issue a search warrant or, as the case may be, an evidence-gathering order where it is satisfied on the basis of evidence presented before it that there are reasonable grounds to believe that:

- (a) the acts complained of, if performed in Pakistan, shall constitute an offence under the laws of

Pakistan; or

(b) the person committing an offence or the witness is in Pakistan.

(3) An evidence-gathering order,

(a) shall provide for the manner in which the statement or testimony is to be taken or the evidence is to be obtained or the person or thing to be identified in order to give proper effect to the request unless prohibited under the laws of the Islamic Republic of Pakistan, and, in particular, may require any person named therein to-

(i) make a record from data or make a copy of record;

(ii) attend court to give evidence or oath; or

(iii) produce to the court or to any person, named by the court, anything including any article, record or copy thereof; and

(b) may include such terms and conditions as the court considers expedient, including those relating to the interests of the person named therein or of the third party.

(4) Where the evidence sought under this Act is a statement or testimony of any person, the court may permit,

(a) any person to whom the foreign investigation, prosecution or proceedings relate or that person's legal representative to participate in the proceedings; and

(b) the legal representative of the country to participate in the proceedings and question the witness.

(5) A person named in an evidence-gathering order may refuse to answer a question or to produce a record or thing where such refusal is based on,

(a) a law in force in Pakistan:

(b) privilege recognized by a law in force in the country that made the request; or

(c) a law in force in the country that made the request provides that the answering of that question or the production of that record or thing by that person in its own jurisdiction is, or shall be deemed to be, a criminal offence.

(6) Where a person refuses to answer a question or to produce a record or thing under sub-section (5), the court shall refer the matter to the central authority which shall notify the requesting country accordingly and request it to provide a response on whether the person's refusal is well founded under the law of that country.

(7) Any response received by the central authority from the country in response to a request under sub-section (6) shall be admissible in the evidence gathering proceedings in accordance with law.

(8) The court may issue a bailable warrant for the arrest of a person named in an evidence-gathering order where it is satisfied on the basis of evidence presented before it, that the person was personally served with the order and he willfully did not attend or remain in attendance as required or is about to abscond.

(9) A person arrested in pursuance of warrant issued under sub-section (8) shall forthwith be brought before the court, to ensure compliance with the order made under sub-section (2), and the court may pass order that the person be detained in custody for a period not exceeding forty-eight hours or released with or without production of sureties.

(10) A search warrant,

(a) shall be issued in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898);

(b) shall specify time and date when the court will hear any representation from any person from whom a record or thing is seized pursuant to the warrant, before any order is made to send it to the country from which it is obtained; and

(c) may include such terms and conditions as the court considers desirable including conditions relating to the time or manner of its execution.

(11) The person executing a search warrant, issued under sub-section (2) -

(a) may seize any property which be believed on reasonable grounds has been obtained for, or used in or intended to be used in connection with the matter specified in the request for mutual legal assistance received by the central authority; and

(b) shall, at least three days before the time of the hearing to consider its execution, file in the court a written report concerning the execution of the warrant including a description of the records or things seized.

(12) At the hearing to consider the execution of search warrant, the court, after considering any representation made by the central authority or any person from whom record or thing was seized pursuant to the warrant or any person who claims to have an interest in the record or thing may,

(a) order that the record or thing be returned to the person from whom it was seized or to the person lawfully entitled to its possession and that it would be in the public interest to return it; or

(b) order that the record or thing be sent to the country, and include in the order such terms and conditions as the court considers order that the record or thing be sent to the country, and include in the order such terms and conditions as the court considers necessary-

(i) to give effect to the request from that country; and

(ii) with respect to the preservation and return to Pakistan of any record or thing seized so as to respect the interest of a third party.

(13) No record or thing seized and ordered to be sent to a country shall be sent until the central authority is satisfied that the country has agreed to comply with any terms or conditions imposed in respect of the sending abroad of the record or thing.

(14) The court may issue an order that the testimony of statement, the identification of a person or thing or any other form of assistance be provided by use of video or audio transmission technology. Any such court shall-

(a) order the person to attend at a time and place fixed by the court to give his statement, testify or otherwise provide assistance by video conference and to remain in attendance until excused by the authorities of the requesting country';

(b) to answer any questions raised by the authorities of the foreign States, or persons authorized by those authorities, in accordance with the laws that apply to that foreign States: and

(c) to produce or show to those authorities at the time and place fixed by the court, prosecutor or other authority any item, including any document or copy thereof and may include any other appropriate conditions.

(15) The costs of establishing a video or telephone link, costs related to the servicing of a video or telephone link in name of state shall be borne by the requesting state, unless otherwise agreed.

Section 14. Foreign confiscation order.

(2) The court shall issue adequate notice to all persons appearing to have an interest in the property against which the confiscation order may be executed.

(3) Any person with an interest in the property against which the application for execution of the confiscation order has been filed may, within thirty days of receiving notice under sub-section (2), make an application objecting to the confiscation.

(b) Observations on the implementation of the article

The Mutual Legal Assistance (Criminal Matters) Act (sect. 14 (2) and (3)) provides for the protection of *bona fide* third parties in cases of confiscation pursuant to a foreign request.

Article 56. Special cooperation

Article 56

Without prejudice to its domestic law, each State Party shall endeavour to take measures to permit it to forward, without prejudice to its own investigations, prosecutions or judicial proceedings, information on proceeds of offences established in accordance with this Convention to another State Party without prior request, when it considers that the disclosure of such information might assist the receiving State Party in initiating or carrying out investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under this chapter of the Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

The Anti-money Laundering Act, 2010 (Section 26) provides for entering into agreements with foreign jurisdictions for sharing of information. The same is reproduced as under:

26. Agreements with foreign countries. (1) The Federal Government may enter into an agreement on reciprocal basis with the Government of any country outside Pakistan for:

(a) the investigation and prosecution of any offence under this Act or under the corresponding law in force in that country.

(b) exchange of information for the prevention of any offence under this Act or under the corresponding law in force in that country;

(c) seeking or providing of assistance or evidence in respect of any offence under this Act or under the corresponding law in force in that country; and

(d) transfer of property relating to any offence under this Act or under the corresponding law in force in that country.

(2) The agreement in terms of subsection (1) shall be subject to such conditions, exceptions or qualifications as may be specified in the said agreement: Provided that the agreement shall not be enforceable if it may, in any manner, be prejudicial to the sovereignty, security, national interest or public order.

(3) In this section and the succeeding sections, unless the context otherwise requires,

(a) the expression "contracting State" means any country or place outside Pakistan in respect of

which arrangements have been made by the Federal Government with the Government of such country through a treaty or otherwise;

(b) the expression "identifying" includes establishment of a proof that the property was derived from, or used in, the commission of an offence under section 3; and

(c) "Tracing" means determining the nature, source, disposition, movement, title or ownership of property.

The Mutual Legal Assistance (Criminal matters) Act 2020 has been passed by the parliament quite recently. The relevant section of The Mutual Legal Assistance (Criminal matters) Act 2020 pertaining to Article 56 are as follows:

Section 5 Transmission of information. (1) The central authority shall not initiate transmitting of any information relating to criminal matters to the appropriate authority in a country concerned with such criminal matters, without prior request by that country:

Provided that no request for mutual legal assistance shall be approved by the central authority without issuing notice to the person to whom the request relates.

(2) Subject to the provisions of this Act, a request transmitted by a country to any other agency or authority in Pakistan shall be referred by such agency or authority to the central authority and this shall not affect the validity of the request or actions taken thereupon.

MLA Guidelines

6. SEEKING INFORMAL REQUEST

e. If a LEA comes into possession of information, which it knows or believes will be of interest or assistance to another jurisdiction or a domestic agency:

- Enter the information into the database, create a file and assign a sequential file number if a file or data entry does not already exist.
- Ensure that the information is of a nature that can be disclosed.
- Ensure that such disclosure is within the authority of the LEA.
- Prepare a report in the prescribed form for transmission.
- Transmit the report to the foreign or domestic agency or agencies to which it is or may be of interest.
- Seek an acknowledgement of the receipt of the information.
- Add to the request, any qualifications regarding the use of the information, as may be deemed necessary by the LEA from which the information was obtained if it was not information held by the LEA. These qualifications should include a condition that the information is provided on a confidential basis and is not to be made public and forbidding use of the information as evidence in a criminal or civil proceeding until the information is released pursuant to a formal request in accordance with Mutual Legal Assistance legislation.

(b) Observations on the implementation of the article

While the formal transmission of information can be carried out only upon prior request (sect. 5 of the Mutual Legal Assistance (Criminal Matters) Act), the authorities of Pakistan may informally provide information to foreign authorities spontaneously and have done so in the past. The Financial

Monitoring Unit, the Federal Investigation Agency, the State Bank of Pakistan, the Federal Board of Revenue, the National Savings Supervisory Board and SECP have provisions for sharing information spontaneously or on request, either under the Anti-Money-Laundering Act or under their own procedures. The mutual legal assistance guidelines (sect. 6 (e)) allow for the spontaneous sharing of information if the information is of a nature that can be disclosed and the disclosure is within the purview of the law enforcement authority.

The AMLA enables the FMU to share all kinds of information related to ML, TF and predicate offences, as well as any linked to the objectives of the AMLA. The Act requires the exchange of information based on reciprocity. The AMLA (s.6(4)(c & e)) allows the FMU to enter into arrangements with domestic agencies, authorities or any reporting entity or any of its officers as may be necessary to implement the provisions of the Act and share reports, information and materials.

FMU has signed 15 memorandums of understanding with its foreign counterparts relevant to cooperation, including the spontaneous exchange of information. The authorities also spontaneously exchange information through INTERPOL.

Article 57. Return and disposal of assets

Paragraph 1 of article 57

1. Property confiscated by a State Party pursuant to article 31 or 55 of this Convention shall be disposed of, including by return to its prior legitimate owners, pursuant to paragraph 3 of this article, by that State Party in accordance with the provisions of this Convention and its domestic law.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

NAB being central authority under UNCAC is receiving MLA requests from foreign jurisdictions in corruption matters. As a matter of practice NAB used to authorize inquiry under NAO 1999 (Section 9) on the MLA requests received. Thereafter NAB has all the power to collect information (Section 19 read with section 27). Furthermore, under section 12, the law authorizes Chairman NAB to issue freezing order in respect of a property which is expected to be alienated by any means. After collection of relevant details chairman NAB is empowered to file a reference under section 18 (g) of NAO, 1999 against the accused persons.

The proceedings under the Accountability Law in Islamic Republic of Pakistan are criminal in nature. The mechanism for asset recovery and disposal is upon conclusion of trial. If prosecution is able to prove the case in accordance with the requirements of substantive, procedural and evidence law, the Accountability Court may, in terms of Section 10 of NAO, 1999 sentence a person and order forfeiture of assets, obtained through corruption and corrupt practices. Besides, forfeiture of assets, the court may also impose fine.

Under Section 33E of NAO, 1999, any fine or other sum as determined by the court can be recovered as arrears of the land revenue which concern all the aspects, to recover the ill-gotten amount in civil nature.

The Accountability Law also provides a mechanism for plea bargain primarily aimed at recovering

proceeds of corruption and assets derived out of corrupt practices. Section 25(b) of NAO,1999 provides an option of Plea Bargain; an accused can seek the benefit of plea bargain by returning the proceeds of corruption with the approval of court. The aforesaid concept is special mechanism to facilitate recovery of assets without resorting to prosecution or completion of trial.

25(b) Where at any time after the authorization of investigation, before or after the commencement of the trial or during the pendency of an appeal, the accused offers to return to the NAB the assets or gains acquired or made by him in the course, or as a consequence, of any offence under this Ordinance, the Chairman, NAB, may, in his discretion, after taking into consideration the facts and circumstances of the case, accept the offer on such terms and conditions as he may consider necessary, and if the accused agrees to return to the NAB the amount determined by the Chairman, NAB, the Chairman, NAB, shall refer the case for the approval of the Court, or as the case may be, the Appellate Court and for the release of the accused.

Under section 25(c) the assets recovered through Plea Bargain are required to be transferred to original owners within one month.

25(c) The amount deposited by the accused with the NAB shall be transferred to the Federal Government or, as the case may be, a Provincial Government or the concerned bank or financial institution, company, body corporate, co-operative society, statutory body, or authority concerned within one month from the date of such deposit.

NAO, 1999

Section 21. International Cooperation Request for Mutual Legal Assistance

21. The Chairman NAB or any officer authorized by the Federal Government may request a Foreign State to do [any or all of] the following acts in accordance with the law of such State:

- (a) have evidence taken, or documents or other articles produced;
- (b) obtain and execute search warrants or other lawful instruments authorizing search for things relevant to investigation or proceedings in Pakistan believed to be located in that State, and if found, seize them;
- (c) freeze assets, by whatever processes are lawfully available in that State, to the extent to which the assets are believed on reasonable grounds to be situated in that State;
- (d) confiscate articles and forfeit assets to the extent to which the articles or assets, as the case may be, are believed to be located in that State;
- (e) transfer to Pakistan any such evidence, documents, things articles, assets or proceeds realized from the disposal of such articles or assets;
- (f) transfer in custody to Pakistan a person detained in [that] state who consents to assist Pakistan in the relevant investigation or proceedings;
- (g) notwithstanding anything contained in the Qanun-e-Shahadat Order 1984 (P.O. 10 of 1984) or any other law for the time being in force all evidence, documents or any other material transferred to Pakistan by a Foreign Government shall be receivable as evidence in legal proceedings under this Ordinance [; and]
- (h) notwithstanding anything to the contrary contained hereinabove, the Chairman NAB may, on such terms and conditions as he deems fit, employ any person or organization, whether in Pakistan or abroad, for detecting, tracing or identifying assets acquired by an accused in connection with an offence under this Ordinance, and secreted or hoarded abroad, or for recovery of and repatriation to Pakistan of such assets

Section 25. Voluntary return and plea bargain

(a) Notwithstanding anything contained in section 15 or in any other law for the time being in force, where a holder of public office or any other person, prior to the authorization of investigation against him, voluntarily comes forward and offers to return the assets or gains acquired or made by him in the course, or as the consequence, of any offence under this Ordinance, the Chairman NAB may accept such offer and after determination of the amount due from such person and its deposit with the NAB discharge such person from all his liability in respect of the matter or transaction in issue: Provided that the matter is not *sub judice* in any court of law.

(b) Where at any time after the authorization of investigation, before or after the commencement of the trial or during the pendency of an appeal, the accused offers to return to the NAB the assets or gains acquired or made by him in the course, or as a consequence, of any offence under this Ordinance, the Chairman, NAB, may, in his discretion, after taking into consideration the facts and circumstances of the case, accept the offer on such terms and conditions as he may consider necessary, and if the accused agrees to return to the NAB the amount determined by the Chairman, NAB, the Chairman, NAB, shall refer the case for the approval of the Court, or as the case may be, the Appellate Court and for the release of the accused.

(c) The amount deposited by the accused with the NAB shall be transferred to the Federal Government or, as the case may be, a Provincial Government or the concerned bank or financial institution, company, body corporate, co-operative society, statutory body, or authority concerned within one month from the date of such deposit.

ORDER XXI DEALS WITH EXECUTION OF DECREES AND ORDERS

The Mutual Legal Assistance (Criminal matters) Act 2020 has been passed by the parliament quite recently. The relevant sections of The Mutual Legal Assistance (Criminal matters) Act 2020 pertaining to this paragraph of Article 57 are as follows:

In section 2 (h), (i), (n), (p) & (q) following definitions have been given;

(h) "confiscation" means deprivation of property by order of a court;

(i) "confiscation order" means an order made by a court in the Islamic Republic of Pakistan or a court of a country with whom the Islamic Republic of Pakistan has entered into reciprocal agreement for the confiscation of proceeds or instrumentalities of crime or terrorist property or for the property derived or obtained directly or indirectly from the offence of money laundering or property of corresponding value whether or not the order is based on criminal conviction;

(n) "Instrumentalities of crime" means any property,

(i) used in, or in connection with, the commission of a criminal offence; or

(ii) for which there are reasonable grounds of suspecting that the said property may be used in, or employed in connection with, the commission of a criminal offence; or

(iii) whether the property is located or the offence is committed within or outside Pakistan;

(p) "proceeds of crime" means any property situated within or outside Pakistan derived from or obtained through commission of a criminal offence, committed within or outside Pakistan;

(q) "property" means property or assets of any description, movable or immovable, corporeal or incorporeal, tangible or intangible, situated within or outside Pakistan;

Section 14 and 15 of MLA Act 2020 are reproduced as under:

Section 14. Foreign confiscation order.

(1) Where the central authority approves a request of a country for enforcement of a confiscation order in relation to any property which is believed on reasonable ground to be located in Pakistan, the central authority may apply to the court for enforcement of the confiscation order against such property.

(2) The court shall issue adequate notice to all persons appearing to have an interest in the property against which the confiscation order may be executed.

(3) Any person with an interest in the property against which the application for execution of the confiscation order has been filed may, within thirty days of receiving notice under sub-section (2), make an application objecting to the confiscation.

(4) The court to which an application is made under sub-section (1) may order to enforce the foreign confiscation order, where it is satisfied that there are reasonable grounds to believe that -

(a) an offence has been committed by a person under the laws of the requesting country which, if committed in Pakistan, also constitutes a criminal offence in Pakistan;

(b) the foreign confiscation order has been made in the country in relation to the offence referred to in clause (a);

(c) the confiscation order is in force in the requesting country and is not subject to appeal;

(d) the properties specified in the confiscation order are located in Pakistan; and

(e) the person, whose property is the subject of the confiscation order, had appeared or participated in the proceedings or intentionally refused to do so despite having notice of the proceedings which culminated into such confiscation order being passed.

(5) The central authority may enter into arrangements with the requesting country for transfer to the central authority the whole or part of any property, proceeds or instrumentalities of crime confiscated in Pakistan in response to a request for the enforcement of a confiscation order pursuant to this Act.

Section 15. Request to recover foreign fines. - (1) Where the central authority approves a request from a country to enforce payment of a fine imposed by a court of that country, it shall make an application to the court to enforce payment of the fine in the manner as if the fine has been imposed by a court in Pakistan.

Explanation. for the purpose of this section, the expression "fine" shall include any pecuniary penalty determined by a foreign court to represent the value of any property, benefit, advantage, obtained or derived directly or indirectly as a result of the commission of an offence.

(2) The court may pass the order for enforcement of fine, if it is satisfied that -

(a) the foreign order is in force in that country and is not subject to appeal; and

(b) where the person, who is the subject of the foreign order, had appeared or participated in the proceedings or intentionally refused to do so despite having notice of the proceeding, which culminated into such confiscation order being passed.

(3) No proceedings under sub-section (1) shall be instituted after the expiry of three years from the date when the fine was imposed.

Anti-Money Laundering Act, 2010

10. Vesting of property in Federal Government. Where an order of forfeiture has been made

under sub-section (6) of section 9 in respect of any property of a person, all the rights and title in such property shall vest absolutely in the Federal Government free from all encumbrances:

Provided that where the Court, after giving an opportunity of being heard to any other person interested in the property attached under section 8, or seized under section 14, is of the opinion that any encumbrance on the property or leasehold interest has been created with a view to defeat the provisions of this Act, it may, by order, declare such encumbrance or lease-hold interest to be void and thereupon the aforesaid property shall vest in the Federal Government free from such encumbrances or lease-hold interest:

Provided further that nothing in this section shall operate to discharge any person from any liability in respect of such encumbrances, which may be legally enforced against such person.

26. Agreements with foreign countries. (1) The Federal Government may enter into an agreement on reciprocal basis with the Government of any country outside Pakistan for:

(d) transfer of property relating to any offence under this Act or under the corresponding law in force in that country.

30. Attachment, seizure and forfeiture etc., of property in a contracting State or Pakistan.—

(1) Where the investigating officer has made an order for attachment of any property under section 8 or where the court has made an order confirming such attachment or forfeiture of any property under section 9 and such property is suspected to be in a contracting state, the Court on an application by the investigating officer, may issue a letter of request to a Court or an authority in the contracting state for execution of such order.

(2) Where a letter of request is received by the Federal Government from a court in a contracting State requesting attachment or forfeiture of the property in Pakistan derived or obtained, directly or indirectly, by any person from the commission of an offence under section 3 committed in that contracting State, the Federal Government may forward such letter of request to the investigating agency, as it thinks fit, for execution in accordance with the provisions of this Act or permit execution of the request in the manner sought by the contracting state so long as doing so would not violate Law of Pakistan or is, in any manner, not prejudicial to the sovereignty, security, national interest or public order.

(3) The Federal Government may, on receipt of a letter of request under section 27 or section 28, direct any investigating agency under this Act to take all steps necessary for tracing and identifying such property.

(4) The steps referred to in sub-section (3) may include any inquiry, investigation of survey in respect of any person, place, property, assets, documents, books of accounts in any reporting entity³⁹ or any other relevant matters.

(5) Any inquiry, investigation, or survey referred to in sub-section (4) shall be carried out by an agency mentioned in sub-section (3) in accordance with such directions issued in accordance with the provisions of this Act.

(6) The provisions of this Act relating to attachment, adjudication, forfeiture vesting of property in the Federal Government, survey, search and seizures shall apply to the property in respect of which letter of request is received from a court or contracting State for attachment or forfeiture of property.

Code of Criminal Procedure 1898 (CrPC)

517. Order for disposal of property regarding which offence committed

(1) When an inquiry or a trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal by destruction, confiscation, or delivery to any person claiming to be entitled to possession thereof or otherwise of any property or document produced before it or in its custody or regarding whiter any offence appear to have been committed or which has been used for the commission of any offence.

(2) When a High Court or Court of Sessions makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by the [District Officer (Revenue)]

(3) When an order is made under this section such order shall not, except where the property is livestock or subject to speedy and natural decay, and save as provided by subsection (4), be carried out for one month, or, when an appeal is presented, until such appeal has been disposed of.

(4) Nothing in this section shall be deemed to prohibit any Court from delivering any property under the provisions of sub-section (1) to any person claiming to be entitled to the possession thereof, on his executing a bond with or without sureties to the satisfaction of the Court; engaging to restore such property to the Court if the order made under this section is modified or set aside on appeal.

Explanation: In this section the term "property" includes in the case of property regarding which an offence appear to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

Examples of the implementation

Repatriation to a foreign jurisdiction

A complaint was made by HSBC Bank, London, where the accused persons were alleged to have fraudulently embezzled funds amounting to PKR 400 million (USD \$2.96 million) through 28 bogus/fake SWIFT messages and correspondence, and subsequently transferred this money from HSBC London to Pakistan and Japan. The STRs were then filed by various banks to SBP.

After the completion of the inquiry, PKR \$146.69 million (USD \$1.09 million) worth of funds were recovered using VR and PB. A portion of this amount was remitted to HSBC. However, following the close of operations of HSBC in Pakistan, repatriation of the rest (approx. PKR 95.3 million or USD \$706,177) was brought to the attention of the National Crime Agency of the UK, through a letter dated 14th September 2018 to a Pakistani local bank which took over operations of HSBC, Pakistan. The repatriation process is still ongoing.

(b) Observations on the implementation of the article

Confiscated assets are transferred to the Government (sect. 10 of the Anti-Money-Laundering Act). Nevertheless, the Code of Criminal Procedure and the Anti-Money-Laundering Act allow for the return of such assets to the requesting country (sect. 30 of the Anti-Money-Laundering Act) or to any person claiming to be entitled to possession (sect. 517 of the Code of Criminal Procedure). Accordingly, Pakistan has returned the proceeds of embezzlement of private funds to a financial institution in a foreign jurisdiction. Furthermore, NAB may facilitate the indirect recovery of assets through voluntary return and plea bargaining (sect. 25 of the National Accountability Ordinance), and has done so in two cases.

Voluntary return is the voluntary return of any gain or assets obtained through corrupt practices

prior to the commencement of an investigation where, following the approval of the NAB Chairman, the accused will be discharged. Plea bargain is implemented in a similar manner except that it is applicable from the start of investigation but before the issuance of judgment. Plea bargain does not end up with complete discharge of liability, unlike the voluntary return.

The Mutual Legal Assistance (Criminal Matters) Act is silent on issues of return, with the exception of section 8 (1), read in conjunction with section 7 (e), according to which the central authority may transmit to the requesting country property or proceeds realized from the disposal of property, and section 14 (5), which allows the central authority to enter into arrangements with the requesting country for the return of confiscated assets in Pakistan in response to a request for the enforcement of a confiscation order.

For a greater legal certainty, it is recommended that Pakistan expressly provide for the return and disposal of assets in accordance with the provisions of article 57, paragraph 3, of the Convention.

Paragraph 2 of article 57

2. Each State Party shall adopt such legislative and other measures, in accordance with the fundamental principles of its domestic law, as may be necessary to enable its competent authorities to return confiscated property, when acting on the request made by another State Party, in accordance with this Convention, taking into account the rights of bona fide third parties.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

NAB being central authority under UNCAC is receiving MLA requests from foreign jurisdictions in corruption matters. As a matter of practice NAB used to authorize inquiry under NAO, 1999 (Section 9) on the MLA requests received. Thereafter NAB has all the power to collect information (Section 19 read with section 27). Furthermore, under section 12, the law authorizes Chairman NAB to issue freezing order in respect of a property which is expected to be alienated by any means. After collection of relevant details chairman NAB is empowered to file a reference under section 18 (g) of NAO, 1999 against the accused persons.

The proceedings under the Accountability Law in Islamic Republic of Pakistan are criminal in nature. The mechanism for asset recovery and disposal is upon conclusion of trial. If prosecution is able to prove the case in accordance with the requirements of substantive, procedural and evidence law, the Accountability Court may, in terms of Section 10 of NAO, 1999 sentence a person and order forfeiture of assets, obtained through corruption and corrupt practices. Besides, forfeiture of assets, the court may also impose fine. Under Section 33E of Accountability Law, any fine or other sum as determined by the court can be recovered as arrears of the land revenue which concern all the aspects, to recover the ill-gotten amount in civil nature.

The Accountability Law also provides a mechanism for plea bargain primarily aimed at recovering proceeds of corruption and assets derived out of corrupt practices. Section 25(b) of NAO provides an option of Plea Bargain; an accused can seek the benefit of plea bargain by returning the proceeds of corruption with the approval of court. The aforesaid concept is special mechanism to facilitate recovery of assets without resorting to prosecution or completion of trial.

25(b) Where at any time after the authorization of investigation, before or after the commencement

of the trial or during the pendency of an appeal, the accused offers to return to the NAB the assets or gains acquired or made by him in the course, or as a consequence, of any offence under this Ordinance, the Chairman, NAB, may, in his discretion, after taking into consideration the facts and circumstances of the case, accept the offer on such terms and conditions as he may consider necessary, and if the accused agrees to return to the NAB the amount determined by the Chairman, NAB, the Chairman, NAB, shall refer the case for the approval of the Court, or as the case may be, the Appellate Court and for the release of the accused.

Under section 25(c) the assets recovered through Plea Bargain are required to be transferred to original owners within one month.

25(c) The amount deposited by the accused with the NAB shall be transferred to the Federal Government or, as the case may be, a Provincial Government or the concerned bank or financial institution, company, body corporate, co-operative society, statutory body, or authority concerned within one month from the date of such deposit.

The Mutual Legal Assistance (Criminal matters) Act 2020 has been passed by the parliament quite recently. The relevant sections of The Mutual Legal Assistance (Criminal matters) Act 2020 pertaining to this paragraph of Article 57 are as follows:

In section 2 (h), (i), (n), (p) & (q) following definitions have been given;

(h) "confiscation" means deprivation of property by order of a court;

(i) "confiscation order" means an order made by a court in the Islamic Republic of Pakistan or a court of a country with whom the Islamic Republic of Pakistan has entered into reciprocal agreement for the confiscation of proceeds or instrumentalities of crime or terrorist property or for the property derived or obtained directly or indirectly from the offence of money laundering or property of corresponding value whether or not the order is based on criminal conviction;

(n) "Instrumentalities of crime" means any property,

(i) used in, or in connection with, the commission of a criminal offence; or

(ii) for which there are reasonable grounds of suspecting that the said property may be used in, or employed in connection with, the commission of a criminal offence; or

(iii) whether the property is located or the offence is committed within or outside Pakistan;

(p) "proceeds of crime" means any property situated within or outside Pakistan derived from or obtained through commission of a criminal offence, committed within or outside Pakistan;

(q) "property" means property or assets of any description, movable or immovable, corporeal or incorporeal, tangible or intangible, situated within or outside Pakistan;

Section 14 and 15 of MLA Act 2020 are reproduced as under:

Section 14. Foreign confiscation order.

(1) Where the central authority approves a request of a country for enforcement of a confiscation order in relation to any property which is believed on reasonable ground to be located in Pakistan, the central authority may apply to the court for enforcement of the confiscation order against such property.

(2) The court shall issue adequate notice to all persons appearing to have an interest in the property against which the confiscation order may be executed.

(3) Any person with an interest in the property against which the application for execution of the

confiscation order has been filed may, within thirty days of receiving notice under sub-section (2), make an application objecting to the confiscation.

(4) The court to which an application is made under sub-section (1) may order to enforce the foreign confiscation order, where it is satisfied that there are reasonable grounds to believe that -

(a) an offence has been committed by a person under the laws of the requesting country which, if committed in Pakistan, also constitutes a criminal offence in Pakistan;

(b) the foreign confiscation order has been made in the country in relation to the offence referred to in clause (a);

(c) the confiscation order is in force in the requesting country and is not subject to appeal;

(d) the properties specified in the confiscation order are located in Pakistan; and

(e) the person, whose property is the subject of the confiscation order, had appeared or participated in the proceedings or intentionally refused to do so despite having notice of the proceedings which culminated into such confiscation order being passed.

(5) The central authority may enter into arrangements with the requesting country for transfer to the central authority the whole or part of any property, proceeds or instrumentalities of crime confiscated in Pakistan in response to a request for the enforcement of a confiscation order pursuant to this Act.

Section 15. Request to recover foreign fines. - (1) Where the central authority approves a request from a country to enforce payment of a fine imposed by a court of that country, it shall make an application to the court to enforce payment of the fine in the manner as if the fine has been imposed by a court in Pakistan.

Explanation. for the purpose of this section, the expression "fine" shall include any pecuniary penalty determined by a foreign court to represent the value of any property, benefit, advantage, obtained or derived directly or indirectly as a result of the commission of an offence.

(2) The court may pass the order for enforcement of fine, if it is satisfied that -

(a) the foreign order is in force in that country and is not subject to appeal; and

(b) where the person, who is the subject of the foreign order, had appeared or participated in the proceedings or intentionally refused to do so despite having notice of the proceeding, which culminated into such confiscation order being passed.

(3) No proceedings under sub-section (1) shall be instituted after the expiry of three years from the date when the fine was imposed.

Examples of the implementation

As mentioned in Article 54-1(a).

(b) Observations on the implementation of the article

The MLA Act (sect. 14(2) and (3) provides for the protection of *bona fide* third parties in cases of confiscation pursuant to a foreign request.

Subparagraph 3 (a) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

(a) In the case of embezzlement of public funds or of laundering of embezzled public funds as referred to in articles 17 and 23 of this Convention, when confiscation was executed in accordance with article 55 and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party;

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

The proceedings under the Accountability Law in Islamic Republic of Pakistan are criminal in nature. The mechanism for asset recovery and disposal is upon conclusion of trial. If prosecution is able to prove the case in accordance with the requirements of substantive, procedural and evidence law, the Accountability Court may, in terms of Section 10 of NAO 1999 sentence a person and order forfeiture of assets, obtained through corruption and corrupt practices. Besides, forfeiture of assets, the court may also impose fine. Under Section 33E of Accountability Law, any fine or other sum as determined by the court can be recovered as arrears of the land revenue which concern all the aspects, to recover the ill-gotten amount in civil nature.

The Accountability Law also provides a mechanism for plea bargain primarily aimed at recovering proceeds of corruption and assets derived out of corrupt practices. Section 25(b) of NAO, 1999 provides an option of Plea Bargain; an accused can seek the benefit of plea bargain by returning the proceeds of corruption with the approval of court. The aforesaid concept is special mechanism to facilitate recovery of assets without resorting to prosecution or completion of trial.

25(b) Where at any time after the authorization of investigation, before or after the commencement of the trial or during the pendency of an appeal, the accused offers to return to the NAB the assets or gains acquired or made by him in the course, or as a consequence, of any offence under this Ordinance, the Chairman, NAB, may, in his discretion, after taking into consideration the facts and circumstances of the case, accept the offer on such terms and conditions as he may consider necessary, and if the accused agrees to return to the NAB the amount determined by the Chairman, NAB, the Chairman, NAB, shall refer the case for the approval of the Court, or as the case may be, the Appellate Court and for the release of the accused.

Under section 25(c) the assets recovered through Plea Bargain are required to be transferred to original owners within one month.

25(c) The amount deposited by the accused with the NAB shall be transferred to the Federal Government or, as the case may be, a Provincial Government or the concerned bank or financial institution, company, body corporate, co-operative society, statutory body, or authority concerned within one month from the date of such deposit.

As a matter of practice NAB never imposed conditions in return of properties to foreign jurisdiction. NAB is also a designated investigation agency under Anti Money Laundering Act, (AMLA) 2010. Following provisions are available in AMLA, 2010 regarding attachment of property, investigation, management of property attached / freezed and disposal of properties.

THE ANTI-MONEY LAUNDERING ACT, 2010

8. Attachment of property involved in money laundering. (1) [an] Investigating Officer may, on the basis of the report in his possession received from the concerned investigating [or prosecuting]

agency, by order in writing, with prior permission of the Court, provisionally attach [a] property, which he reasonably believes to be [the property] involved in money laundering for a period not exceeding ninety days from the date of the order.

(2) The Investigating Officer shall within forty-eight hours immediately after attachment under subsection (1), forward a copy of the order, [and the report] referred to in that subsection, to the head of the concerned investigating agency, in a sealed envelope.

(3) Every order of attachment made under subsection (1) shall cease to have effect after the expiry of the period specified in that subsection or on the date of the finding made under subsection (2) of section 9 whichever is earlier.

(4) Nothing in this section shall prevent the person interested in the enjoyment of the immovable property attached under subsection (1) from such enjoyment. Explanation: For the purposes of this subsection, "person interested", in relation to any immovable property, includes all persons claiming or entitled to claim any interest in the property.

(5) The Investigating Officer who provisionally attaches any property under subsection (1) shall, [submit to the Court monthly report on the progress made in the investigation.]

9. Investigation. (1) The Investigating Officer shall, not later than seven days from the date of order of attachment made under subsection (1) of section 8 or, seizure of property under section 14 or section 15, serve a notice of not less than thirty days on the person concerned. The notice shall call upon such person to indicate the sources of his income, earning or assets, out of which or by means of which he has acquired the property attached under subsection (1) of section 8, or, seized under section 14 or section 15, the evidence on which he relies and other relevant information and particulars, and to show cause why all or any of such properties should not be declared to be the properties involved in money laundering and forfeited to the Federal Government:

Provided that where a notice under this subsection specifies any property as being held by a person on behalf of any other person, a copy of such notice shall also be served upon such other person:

Provided further that where such property is held jointly by more than one person, such notice shall be served upon all persons holding such property.

(2) The Investigating Officer shall, after, ____

(a) considering the reply, if any, to the notice issued under subsection (1);

(b) hearing the aggrieved person; and

(c) taking into account all relevant materials placed on record before him; record a finding whether all or any other properties referred to in the notice issued under subsection (1) are 1 [properties] involved in money laundering:

Provided that if the property is claimed by a person, other than a person to whom the notice had been issued, such person shall also be given an opportunity of being heard to prove that the property is not [a property] involved in money laundering.

(3) Where the Investigating Officer on the basis of report received from the concerned investigating agency determines under subsection (2) that [a] property is [the property] involved in money laundering, he shall, apply to the Court for an order confirming the attachment of the property made under subsection (1) of section 8 or retention of property or record seized under section 14 or section 15. (3A) The Court may, after giving opportunity of hearing to the persons concerned with the property attached under subsection (1) of section 8 or retained or seized under section 14 or section 15, pass an order confirming the attachment, retention, seizure or, as the case may be, release of the

property. The attachment or retention or seizure of the property shall

(a) continue during the pendency of the proceedings relating to any predicate offence or money laundering before a Court;

(b) become final if it is proved in the Court that the property is the property involved in money laundering. ";

(4) Where the provisional order of attachment made under subsection (1) of section 8 has been confirmed under subsection (3), the Investigating Officer shall forthwith take possession of the attached property: Provided that where the property seized is perishable in nature or subject to speedy and natural decay, or when the expense of keeping it in custody is likely to exceed its value, the Court may, on the application of the Investigating Officer, order immediate sale of the property in any manner deemed appropriate in the circumstances.

(5) Where on conclusion of a trial for any predicate offence or money laundering, the person concerned is acquitted, the attachment of the property or retention [or seizure of the] property or record under subsection (3), and net income, if any, shall cease to have effect.

(6) Where the attachment of any property or retention [or seizure of the] property or record becomes final under clause (b) of subsection (3), the Court shall 1 make an order for forfeiture of such property.

(7) After passing the order of forfeiture under subsection (6) the Court [shall] direct the release of all properties other than the properties involved in money laundering to the persons from whom such properties were seized.

10. Vesting of property in Federal Government. Where an order of forfeiture has been made under subsection (6) of section 9 in respect of any property of a person, all the rights and title in such property shall vest absolutely in the Federal Government free from all encumbrances:

Provided that where the Court, after giving an opportunity of being heard to any other person interested in the property attached under section 8, or seized under section 14, is of the opinion that any encumbrance on the property or leasehold interest has been created with a view to defeat the provisions of this Act, it may, by order, declare such encumbrance or leasehold interest to be void and thereupon the aforesaid property shall vest in the Federal Government free from such encumbrances or leasehold interest:

Provided further that nothing in this section shall operate to discharge any person from any liability in respect of such encumbrances, which may be enforced [legally] against such person.

11. Management of forfeited properties. (1) The Federal Government may, by order published in the official Gazette, appoint as many trustees and receivers as it thinks fit to perform the functions of an Administrator.

(2) The Administrator appointed under subsection (1) shall receive and manage the property in relation to which an order has been made under subsection (6) of section 9 in such manner and subject to such conditions as may be prescribed.

(3) The Administrator shall also take such measures, as the Federal Government may direct, to dispose of the property which is vested in the Federal Government under section 10:

Provided that, where the property seized is perishable in nature or subject to speedy and natural decay, or when the expense of keeping it in custody is likely to exceed its value, the Administrator may sell it at once after reasonable notice to the Federal Government.

14. Search and seizure. (1) Subject to subsection (2), where the investigating officer, on the basis of information i~ his possession, has reason to believe that any person

- (a) has committed any act which constitutes money laundering;
- (b) is in possession of any property involved in money laundering; or
- (c) is in possession of any record which may be useful for or relevant to proceedings under this Act, he may either himself, or authorize any officer subordinate to him to,
 - (i) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such record or properties are kept;
 - (ii) break open the lock of any door, box, locker, safe, almirah or other receptacles for exercising the powers conferred by clause (i) where the keys thereof are not available;
 - (iii) seize any such record or property found as a result of such search;
 - (iv) place marks of identification on such record or make, or cause to be made, extracts or copies therefrom;
 - (v) make a note of any inventory of such record or property; or
 - (vi) examine any person, who is found to be in possession or control of any such record or property, in respect of all matters relevant for the purposes of any investigation under this Act.";

(2) The powers to search under subsection (1) shall be exercisable by the Investigating Officer with the prior permission of the Court.

[Provided that where immediate action is required, the powers of search and seizure shall be exercisable with prior permission of senior officer of the concerned investigating or prosecuting agency not below the rank of an officer of BS20.";

(3) The Investigating Officer shall, within forty-eight hours immediately after search and seizure, forward a copy of the report on search and seizure to the head of the concerned investigating [or prosecuting] agency in a sealed envelope.

(4) Where the Investigating Officer, upon information obtained during survey under section 13, is satisfied that any evidence shall be or is likely to be concealed or tampered with, he may, for reasons to be recorded in writing, enter and search the building or place where such evidence is located and seize that evidence.

26. Agreements with foreign countries. (1) The Federal Government may enter into an agreement on reciprocal basis with the Government of any country outside Pakistan for

- (a) the investigation and prosecution of any offence under this Ad or under the corresponding law in force in that country.]
- (b) exchange of information for the prevention of any offence under this Act or under the corresponding law in force in that country;
- (c) seeking or providing of assistance or evidence in respect of any offence under this Act or under the corresponding law in force in that country; and
- (d) transfer of property relating to any offence under this Act or under the corresponding law in force in that country.

(2) The agreement in terms of subsection (1) shall be subject to such conditions, exceptions or qualifications as may be specified in the said agreement: Provided that the agreement shall not be enforceable if it may, in any manner, be prejudicial to the sovereignty, security, national interest or public order.

(3) In this section and the succeeding sections, unless the context otherwise requires,

(a) the expression "contracting State" means any country or place outside Pakistan in respect of which arrangements have been made by the Federal Government with the Government of such country through a treaty or otherwise;

(b) the expression "identifying" includes establishment of a proof that the property was derived from, or used in, the commission of an offence under section 3; and

(c) "Tracing" means determining the nature, source, disposition, movement, title or ownership of property.

Code of Civil Procedure, 1908

13. When foreign judgment not conclusive. A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of them claim litigating under the same title except:

(a) Where it has not been pronounced by a Court of competent Jurisdiction;

(b) Where it has not been given on the merits of the case;

(c) Where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognise the law of [Pakistan] in cases in which such law is applicable;

(d) Where the proceedings in which the Judgment was obtained are opposed to natural justice;

(e) Where it has been obtained by fraud;

(f) Where it sustains a claim founded on a breach of any law in force in [Pakistan].

14. Presumption as to foreign judgment. The Court shall presume, upon the production of any document purporting to be a certified copy of a foreign Judgment, that such Judgment was pronounced by a Court of competent Jurisdiction, unless the contrary appears on the record ; but such presumption may be displaced by proving want of jurisdiction.

The Mutual Legal Assistance (Criminal matters) Act 2020 has been passed by the parliament quite recently. The relevant sections of The Mutual Legal Assistance (Criminal matters) Act 2020 pertaining to this paragraph of Article 57 are as follows:

In section 2 (h), (i), (n), (p) & (q) following definitions have been given;

(h) "confiscation" means deprivation of property by order of a court;

(i) "confiscation order" means an order made by a court in the Islamic Republic of Pakistan or a court of a country with whom the Islamic Republic of Pakistan has entered into reciprocal agreement for the confiscation of proceeds or instrumentalities of crime or terrorist property or for the property derived or obtained directly or indirectly from the offence of money laundering or property of corresponding value whether or not the order is based on criminal conviction;

(n) "Instrumentalities of crime" means any property,

(i) used in, or in connection with, the commission of a criminal offence; or

(ii) for which there are reasonable grounds of suspecting that the said property may be used in, or employed in connection with, the commission of a criminal offence; or

(iii) whether the property is located or the offence is committed within or outside Pakistan;

(p) "proceeds of crime" means any property situated within or outside Pakistan derived from or obtained through commission of a criminal offence, committed within or outside Pakistan;

(q) "property" means property or assets of any description, movable or immovable, corporeal or

incorporeal, tangible or intangible, situated within or outside Pakistan;

Section 14 and 15 of MLA Act 2020 are reproduced as under:

Section 14. Foreign confiscation order.

(1) Where the central authority approves a request of a country for enforcement of a confiscation order in relation to any property which is believed on reasonable ground to be located in Pakistan, the central authority may apply to the court for enforcement of the confiscation order against such property.

(2) The court shall issue adequate notice to all persons appearing to have an interest in the property against which the confiscation order may be executed.

(3) Any person with an interest in the property against which the application for execution of the confiscation order has been filed may, within thirty days of receiving notice under sub-section (2), make an application objecting to the confiscation.

(4) The court to which an application is made under sub-section (1) may order to enforce the foreign confiscation order, where it is satisfied that there are reasonable grounds to believe that -

(a) an offence has been committed by a person under the laws of the requesting country which, if committed in Pakistan, also constitutes a criminal offence in Pakistan;

(b) the foreign confiscation order has been made in the country in relation to the offence referred to in clause (a);

(c) the confiscation order is in force in the requesting country and is not subject to appeal;

(d) the properties specified in the confiscation order are located in Pakistan; and

(e) the person, whose property is the subject of the confiscation order, had appeared or participated in the proceedings or intentionally refused to do so despite having notice of the proceedings which culminated into such confiscation order being passed.

(5) The central authority may enter into arrangements with the requesting country for transfer to the central authority the whole or part of any property, proceeds or instrumentalities of crime confiscated in Pakistan in response to a request for the enforcement of a confiscation order pursuant to this Act.

Section 15. Request to recover foreign fines. - (1) Where the central authority approves a request from a country to enforce payment of a fine imposed by a court of that country, it shall make an application to the court to enforce payment of the fine in the manner as if the fine has been imposed by a court in Pakistan.

Explanation. for the purpose of this section, the expression "fine" shall include any pecuniary penalty determined by a foreign court to represent the value of any property, benefit, advantage, obtained or derived directly or indirectly as a result of the commission of an offence.

(2) The court may pass the order for enforcement of fine, if it is satisfied that -

(a) the foreign order is in force in that country and is not subject to appeal; and

(b) where the person, who is the subject of the foreign order, had appeared or participated in the proceedings or intentionally refused to do so despite having notice of the proceeding, which culminated into such confiscation order being passed.

(3) No proceedings under sub-section (1) shall be instituted after the expiry of three years from the date when the fine was imposed

Examples of the implementation

As mentioned in article 54-1(a)

(b) Observations on the implementation of the article

Confiscated assets are transferred to the Government (sect. 10 of the Anti-Money-Laundering Act). Nevertheless, the Code of Criminal Procedure and the Anti-Money-Laundering Act allow for the return of such assets to the requesting country (sect. 30 of the Anti-Money-Laundering Act) or to any person claiming to be entitled to possession (sect. 517 of the Code of Criminal Procedure). Accordingly, Pakistan has returned the proceeds of embezzlement of private funds to a financial institution in a foreign jurisdiction. Furthermore, NAB may facilitate the indirect recovery of assets through voluntary return and plea bargaining (sect. 25 of the National Accountability Ordinance), and has done so in two cases.

The Mutual Legal Assistance (Criminal Matters) Act is silent on issues of return, with the exception of section 8 (1), read in conjunction with section 7 (e), according to which the central authority may transmit to the requesting country property or proceeds realized from the disposal of property, and section 14 (5), which allows the central authority to enter into arrangements with the requesting country for the return of confiscated assets in Pakistan in response to a request for the enforcement of a confiscation order.

For a greater legal certainty, it is recommended that Pakistan expressly provide for the return and disposal of assets in accordance with the provisions of article 57, paragraph 3, of the Convention.

Subparagraph 3 (b) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

...

(b) In the case of proceeds of any other offence covered by this Convention, when the confiscation was executed in accordance with article 55 of this Convention and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party, when the requesting State Party reasonably establishes its prior ownership of such confiscated property to the requested State Party or when the requested State Party recognizes damage to the requesting State Party as a basis for returning the confiscated property;

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

The proceedings under the Accountability Law in Islamic Republic of Pakistan are criminal in nature. The mechanism for asset recovery and disposal is upon conclusion of trial. If prosecution is able to prove the case in accordance with the requirements of substantive, procedural and evidence law, the Accountability Court may, in terms of Section 10 of NAO 1999 sentence a person and order forfeiture of assets, obtained through corruption and corrupt practices. Besides, forfeiture of assets, the court may also impose fine. Under Section 33E of NAO,1999, any fine or other sum as

determined by the court can be recovered as arrears of the land revenue which concern all the aspects, to recover the ill-gotten amount in civil nature.

The Accountability Law also provides a mechanism for plea bargain primarily aimed at recovering proceeds of corruption and assets derived out of corrupt practices. Section 25(b) of NAO, 1999 provides an option of Plea Bargain; an accused can seek the benefit of plea bargain by returning the proceeds of corruption with the approval of court. The aforesaid concept is special mechanism to facilitate recovery of assets without resorting to prosecution or completion of trial.

25(b) Where at any time after the authorization of investigation, before or after the commencement of the trial or during the pendency of an appeal, the accused offers to return to the NAB the assets or gains acquired or made by him in the course, or as a consequence, of any offence under this Ordinance, the Chairman, NAB, may, in his discretion, after taking into consideration the facts and circumstances of the case, accept the offer on such terms and conditions as he may consider necessary, and if the accused agrees to return to the NAB the amount determined by the Chairman, NAB, the Chairman, NAB, shall refer the case for the approval of the Court, or as the case may be, the Appellate Court and for the release of the accused.

Under section 25(c) the assets recovered through Plea Bargain are required to be transferred to original owners within one month.

25(c) The amount deposited by the accused with the NAB shall be transferred to the Federal Government or, as the case may be, a Provincial Government or the concerned bank or financial institution, company, body corporate, co-operative society, statutory body, or authority concerned within one month from the date of such deposit.

As a matter of practice NAB never imposed conditions in return of proceeds of crime to foreign jurisdiction.

Code of Civil Procedure, 1908

13. When foreign judgment not conclusive. A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of them claim litigating under the same title except __

- (a) Where it has not been pronounced by a Court of competent Jurisdiction ;
- (b) Where it has not been given on the merits of the case;
- (c) Where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognise the law of [Pakistan] in cases in which such law is applicable;
- (d) Where the proceedings in which the Judgment was obtained are opposed to natural justice ;
- (e) Where it has been obtained by fraud ;
- (f) Where it sustains a claim founded on a breach of any law in force in [Pakistan].

14. Presumption as to foreign judgment. The Court shall presume, upon the production of any document purporting to be a certified copy of a foreign Judgment, that such Judgment was pronounced by a Court of competent Jurisdiction, unless the contrary appears on the record ; but such presumption may be displaced by proving want of jurisdiction.

THE ANTI-MONEY LAUNDERING ACT, 2010

26. Agreements with foreign countries. (1) The Federal Government may enter into an agreement on reciprocal basis with the Government of any country outside Pakistan for:

(a) the investigation and prosecution of any offence under this Act or under the corresponding law in force in that country.]

(b) exchange of information for the prevention of any offence under this Act or under the corresponding law in force in that country;

(c) seeking or providing of assistance or evidence in respect of any offence under this Act or under the corresponding law in force in that country; and

(d) transfer of property relating to any offence under this Act or under the corresponding law in force in that country.

(2) The agreement in terms of subsection (1) shall be subject to such conditions, exceptions or qualifications as may be specified in the said agreement: Provided that the agreement shall not be enforceable if it may, in any manner, be prejudicial to the sovereignty, security, national interest or public order.

(3) In this section and the succeeding sections, unless the context otherwise requires,

(a) the expression "contracting State" means any country or place outside Pakistan in respect of which arrangements have been made by the Federal Government with the Government of such country through a treaty or otherwise;

(b) the expression "identifying" includes establishment of a proof that the property was derived from, or used in, the commission of an offence under section 3; and

(c) "Tracing" means determining the nature, source, disposition, movement, title or ownership of property.

The Mutual Legal Assistance (Criminal matters) Act 2020 has been passed by the parliament quite recently. The relevant sections of The Mutual Legal Assistance (Criminal matters) Act 2020 pertaining to this paragraph of Article 57 are as follows:

In section 2 (h), (i), (n), (p) & (q) following definitions have been given;

(h) "confiscation" means deprivation of property by order of a court;

(i) "confiscation order" means an order made by a court in the Islamic Republic of Pakistan or a court of a country with whom the Islamic Republic of Pakistan has entered into reciprocal agreement for the confiscation of proceeds or instrumentalities of crime or terrorist property or for the property derived or obtained directly or indirectly from the offence of money laundering or property of corresponding value whether or not the order is based on criminal conviction;

(n) "Instrumentalities of crime" means any property,

(i) used in, or in connection with, the commission of a criminal offence; or

(ii) for which there are reasonable grounds of suspecting that the said property may be used in, or employed in connection with, the commission of a criminal offence; or

(iii) whether the property is located or the offence is committed within or outside Pakistan;

(p) "proceeds of crime" means any property situated within or outside Pakistan derived from or obtained through commission of a criminal offence, committed within or outside Pakistan;

(q) "property" means property or assets of any description, movable or immovable, corporeal or incorporeal, tangible or intangible, situated within or outside Pakistan;

Section 14 and 15 of MLA Act 2020 are reproduced as under:

Section 14. Foreign confiscation order.

(1) Where the central authority approves a request of a country for enforcement of a confiscation order in relation to any property which is believed on reasonable ground to be located in Pakistan, the central authority may apply to the court for enforcement of the confiscation order against such property.

(2) The court shall issue adequate notice to all persons appearing to have an interest in the property against which the confiscation order may be executed.

(3) Any person with an interest in the property against which the application for execution of the confiscation order has been filed may, within thirty days of receiving notice under sub-section (2), make an application objecting to the confiscation.

(4) The court to which an application is made under sub-section (1) may order to enforce the foreign confiscation order, where it is satisfied that there are reasonable grounds to believe that -

(a) an offence has been committed by a person under the laws of the requesting country which, if committed in Pakistan, also constitutes a criminal offence in Pakistan;

(b) the foreign confiscation order has been made in the country in relation to the offence referred to in clause (a);

(c) the confiscation order is in force in the requesting country and is not subject to appeal;

(d) the properties specified in the confiscation order are located in Pakistan; and

(e) the person, whose property is the subject of the confiscation order, had appeared or participated in the proceedings or intentionally refused to do so despite having notice of the proceedings which culminated into such confiscation order being passed.

(5) The central authority may enter into arrangements with the requesting country for transfer to the central authority the whole or part of any property, proceeds or instrumentalities of crime confiscated in Pakistan in response to a request for the enforcement of a confiscation order pursuant to this Act.

Section 15. Request to recover foreign fines. - (1) Where the central authority approves a request from a country to enforce payment of a fine imposed by a court of that country, it shall make an application to the court to enforce payment of the fine in the manner as if the fine has been imposed by a court in Pakistan.

Explanation. for the purpose of this section, the expression "fine" shall include any pecuniary penalty determined by a foreign court to represent the value of any property, benefit, advantage, obtained or derived directly or indirectly as a result of the commission of an offence.

(2) The court may pass the order for enforcement of fine, if it is satisfied that -

(a) the foreign order is in force in that country and is not subject to appeal; and

(b) where the person, who is the subject of the foreign order, had appeared or participated in the proceedings or intentionally refused to do so despite having notice of the proceeding, which culminated into such confiscation order being passed.

(3) No proceedings under sub-section (1) shall be instituted after the expiry of three years from the date when the fine was imposed

Examples of the implementation

No such request received in Pakistan.

(b) Observations on the implementation of the article

Confiscated assets are transferred to the Government (sect. 10 of the Anti-Money-Laundering Act). Nevertheless, the Code of Criminal Procedure and the Anti-Money-Laundering Act allow for the return of such assets to the requesting country (sect. 30 of the Anti-Money-Laundering Act) or to any person claiming to be entitled to possession (sect. 517 of the Code of Criminal Procedure). Accordingly, Pakistan has returned the proceeds of embezzlement of private funds to a financial institution in a foreign jurisdiction. Furthermore, NAB may facilitate the indirect recovery of assets through voluntary return and plea bargaining (sect. 25 of the National Accountability Ordinance), and has done so in two cases.

The Mutual Legal Assistance (Criminal Matters) Act is silent on issues of return, with the exception of section 8 (1), read in conjunction with section 7 (e), according to which the central authority may transmit to the requesting country property or proceeds realized from the disposal of property, and section 14 (5), which allows the central authority to enter into arrangements with the requesting country for the return of confiscated assets in Pakistan in response to a request for the enforcement of a confiscation order.

For a greater legal certainty, it is recommended that Pakistan expressly provide for the return and disposal of assets in accordance with the provisions of article 57, paragraph 3, of the Convention.

Subparagraph 3 (c) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

...

(c) In all other cases, give priority consideration to returning confiscated property to the requesting State Party, returning such property to its prior legitimate owners or compensating the victims of the crime.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

The proceedings under the Accountability Law in Islamic Republic of Pakistan are criminal in nature. The mechanism for asset recovery and disposal is upon conclusion of trial. If prosecution is able to prove the case in accordance with the requirements of substantive, procedural and evidence law, the Accountability Court may, in terms of Section 10 of NAO 1999 sentence a person and order forfeiture of assets, obtained through corruption and corrupt practices. Besides, forfeiture of assets, the court may also impose fine. Under Section 33E of Accountability Law, any fine or other sum as determined by the court can be recovered as arrears of the land revenue which concern all the aspects, to recover the ill-gotten amount in civil nature.

The Accountability Law also provides a mechanism for plea bargain primarily aimed at recovering proceeds of corruption and assets derived out of corrupt practices. Section 25(b) of NAO provides an option of Plea Bargain; an accused can seek the benefit of plea bargain by returning the proceeds of corruption with the approval of court. The aforesaid concept is special mechanism to facilitate recovery of assets without resorting to prosecution or completion of trial.

25(b) Where at any time after the authorization of investigation, before or after the commencement

of the trial or during the pendency of an appeal, the accused offers to return to the NAB the assets or gains acquired or made by him in the course, or as a consequence, of any offence under this Ordinance, the Chairman, NAB, may, in his discretion, after taking into consideration the facts and circumstances of the case, accept the offer on such terms and conditions as he may consider necessary, and if the accused agrees to return to the NAB the amount determined by the Chairman, NAB, the Chairman, NAB, shall refer the case for the approval of the Court, or as the case may be, the Appellate Court and for the release of the accused.

Under section 25(c) the assets recovered through Plea Bargain are required to be transferred to original owners within one month.

25(c) The amount deposited by the accused with the NAB shall be transferred to the Federal Government or, as the case may be, a Provincial Government or the concerned bank or financial institution, company, body corporate, co-operative society, statutory body, or authority concerned within one month from the date of such deposit.

Code of Civil Procedure, 1908

13. When foreign judgment not conclusive. A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of them claim litigating under the same title except—

- (a) Where it has not been pronounced by a Court of competent Jurisdiction ;
- (b) Where it has not been given on the merits of the case;
- (c) Where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognise the law of [Pakistan] in cases in which such law is applicable;
- (d) Where the proceedings in which the Judgment was obtained are opposed to natural justice ;
- (e) Where it has been obtained by fraud ;
- (f) Where it sustains a claim founded on a breach of any law in force in [Pakistan].

14. Presumption as to foreign judgment. The Court shall presume, upon the production of any document purporting to be a certified copy of a foreign Judgment, that such Judgment was pronounced by a Court of competent Jurisdiction, unless the contrary appears on the record ; but such presumption may be displaced by proving want of jurisdiction.

The Mutual Legal Assistance (Criminal matters) Act 2020 has been passed by the parliament quite recently. The relevant sections of The Mutual Legal Assistance (Criminal matters) Act 2020 pertaining to this paragraph of Article 57 are as follows:

In section 2 (h), (i), (n), (p) & (q) following definitions have been given;

- (h) “confiscation”** means deprivation of property by order of a court;
- (i) “confiscation order”** means an order made by a court in the Islamic Republic of Pakistan or a court of a country with whom the Islamic Republic of Pakistan has entered into reciprocal agreement for the confiscation of proceeds or instrumentalities of crime or terrorist property or for the property derived or obtained directly or indirectly from the offence of money laundering or property of corresponding value whether or not the order is based on criminal conviction;
- (n) “Instrumentalities of crime”** means any property,
 - (i) used in, or in connection with, the commission of a criminal offence; or
 - (ii) for which there are reasonable grounds of suspecting that the said property may be used in, or

employed in connection with, the commission of a criminal offence; or

(iii) whether the property is located or the offence is committed within or outside Pakistan;

(p) "**proceeds of crime**" means any property situated within or outside Pakistan derived from or obtained through commission of a criminal offence, committed within or outside Pakistan;

(q) "**property**" means property or assets of any description, movable or immovable, corporeal or incorporeal, tangible or intangible, situated within or outside Pakistan;

Section 14 and 15 of MLA Act 2020 are reproduced as under:

Section 14. Foreign confiscation order.

(1) Where the central authority approves a request of a country for enforcement of a confiscation order in relation to any property which is believed on reasonable ground to be located in Pakistan, the central authority may apply to the court for enforcement of the confiscation order against such property.

(2) The court shall issue adequate notice to all persons appearing to have an interest in the property against which the confiscation order may be executed.

(3) Any person with an interest in the property against which the application for execution of the confiscation order has been filed may, within thirty days of receiving notice under sub-section (2), make an application objecting to the confiscation.

(4) The court to which an application is made under sub-section (1) may order to enforce the foreign confiscation order, where it is satisfied that there are reasonable grounds to believe that -

(a) an offence has been committed by a person under the laws of the requesting country which, if committed in Pakistan, also constitutes a criminal offence in Pakistan;

(b) the foreign confiscation order has been made in the country in relation to the offence referred to in clause (a);

(c) the confiscation order is in force in the requesting country and is not subject to appeal;

(d) the properties specified in the confiscation order are located in Pakistan; and

(e) the person, whose property is the subject of the confiscation order, had appeared or participated in the proceedings or intentionally refused to do so despite having notice of the proceedings which culminated into such confiscation order being passed.

(5) The central authority may enter into arrangements with the requesting country for transfer to the central authority the whole or part of any property, proceeds or instrumentalities of crime confiscated in Pakistan in response to a request for the enforcement of a confiscation order pursuant to this Act.

Section 15. Request to recover foreign fines. (1) Where the central authority approves a request from a country to enforce payment of a fine imposed by a court of that country, it shall make an application to the court to enforce payment of the fine in the manner as if the fine has been imposed by a court in Pakistan.

Explanation. for the purpose of this section, the expression "fine" shall include any pecuniary penalty determined by a foreign court to represent the value of any property, benefit, advantage, obtained or derived directly or indirectly as a result of the commission of an offence.

(2) The court may pass the order for enforcement of fine, if it is satisfied that -

(a) the foreign order is in force in that country and is not subject to appeal; and

(b) where the person, who is the subject of the foreign order, had appeared or participated in the proceedings or intentionally refused to do so despite having notice of the proceeding, which culminated into such confiscation order being passed.

(3) No proceedings under sub-section (1) shall be instituted after the expiry of three years from the date when the fine was imposed.

Examples of the implementation

As mentioned in Article 54-1(a)

(b) Observations on the implementation of the article

Confiscated assets are transferred to the Government (sect. 10 of the Anti-Money-Laundering Act). Nevertheless, the Code of Criminal Procedure and the Anti-Money-Laundering Act allow for the return of such assets to the requesting country (sect. 30 of the Anti-Money-Laundering Act) or to any person claiming to be entitled to possession (sect. 517 of the Code of Criminal Procedure). Accordingly, Pakistan has returned the proceeds of embezzlement of private funds to a financial institution in a foreign jurisdiction. Furthermore, NAB may facilitate the indirect recovery of assets through voluntary return and plea bargaining (sect. 25 of the National Accountability Ordinance), and has done so in two cases.

The Mutual Legal Assistance (Criminal Matters) Act is silent on issues of return, with the exception of section 8 (1), read in conjunction with section 7 (e), according to which the central authority may transmit to the requesting country property or proceeds realized from the disposal of property, and section 14 (5), which allows the central authority to enter into arrangements with the requesting country for the return of confiscated assets in Pakistan in response to a request for the enforcement of a confiscation order.

For a greater legal certainty, it is recommended that Pakistan expressly provide for the return and disposal of assets in accordance with the provisions of article 57, paragraph 3, of the Convention.

Paragraph 4 of article 57

4. Where appropriate, unless States Parties decide otherwise, the requested State Party may deduct reasonable expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposition of confiscated property pursuant to this article.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

Before enactment of **The Mutual Legal Assistance (Criminal matters) Act 2020**, NAB was receiving Mutual Legal Assistance requests from foreign jurisdictions. In one of the case NAB has recovered looted amount from accused persons and returned to foreign jurisdiction without deducting any expenses (see Article 54-1(a)). As a matter of practice NAB is not deducting any expenses.

The Mutual Legal Assistance (Criminal matters) Act 2020 has been passed by the parliament

quite recently. The Section 21 of The Mutual Legal Assistance (Criminal matters) Act 2020 for deducting extraordinary charges is reproduced as under:

Section 21 Costs, (1) The execution of a request for mutual legal assistance in Islamic Republic of Pakistan shall be conducted without charge to the requesting country, except for

- (a) costs incurred by the attendance of experts in the territory of Pakistan; or
- (b) costs incurred by the transfer of a person in custody; or
- (c) any costs of substantial or extraordinary nature.

(2) The costs of establishing a video or audio or telephone link, costs related to the servicing of a video or telephone link in Pakistan, the remuneration of interpreters provided by it and allowances to witnesses and their travelling shall be borne by that country.

Examples of the implementation

See Article 54-1(a)

(b) Observations on the implementation of the article

In accordance with the Mutual Legal Assistance (Criminal Matters) Act (sect. 21), the execution of a request for mutual legal assistance in Pakistan should be conducted without charge to the requesting country, except for costs of a substantial or extraordinary nature and certain other specific costs.

Paragraph 5 of article 57

5. Where appropriate, States Parties may also give special consideration to concluding agreements or arrangements, on a case-by-case basis, for the final disposal of confiscated property.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

NAB has not received any request from foreign jurisdiction for entering into special agreement for disposal of confiscated property. Moreover, NAB has also not sent any request to foreign jurisdiction for entering into any sort of agreement for disposal of confiscated property.

The Mutual Legal Assistance (Criminal matters) Act 2020 has been passed by the parliament quite recently. The relevant sections of The Mutual Legal Assistance (Criminal matters) Act 2020 pertaining to this paragraph of Article 57 are as follows:

Section 14 of MLA Act 2020 are reproduced as under:

Section 14. Foreign confiscation order.

(1) Where the central authority approves a request of a country for enforcement of a confiscation order in relation to any property which is believed on reasonable ground to be located in Pakistan, the central authority may apply to the court for enforcement of the confiscation order against such property.

(2) The court shall issue adequate notice to all persons appearing to have an interest in the property

against which the confiscation order may be executed.

(3) Any person with an interest in the property against which the application for execution of the confiscation order has been filed may, within thirty days of receiving notice under sub-section (2), make an application objecting to the confiscation.

(4) The court to which an application is made under sub-section (1) may order to enforce the foreign confiscation order, where it is satisfied that there are reasonable grounds to believe that -

(a) an offence has been committed by a person under the laws of the requesting country which, if committed in Pakistan, also constitutes a criminal offence in Pakistan;

(b) the foreign confiscation order has been made in the country in relation to the offence referred to in clause (a);

(c) the confiscation order is in force in the requesting country and is not subject to appeal;

(d) the properties specified in the confiscation order are located in Pakistan; and

(e) the person, whose property is the subject of the confiscation order, had appeared or participated in the proceedings or intentionally refused to do so despite having notice of the proceedings which culminated into such confiscation order being passed.

(5) The central authority may enter into arrangements with the requesting country for transfer to the central authority the whole or part of any property, proceeds or instrumentalities of crime confiscated in Pakistan in response to a request for the enforcement of a confiscation order pursuant to this Act.

(b) Observations on the implementation of the article

The Mutual Legal Assistance (Criminal Matters) Act (sect. 14 (5)) allows the central authority to enter into arrangements with the requesting country for the return of confiscated assets in Pakistan in response to a request for the enforcement of a confiscation order.

Nothing prevents Pakistani authorities from concluding agreements or arrangements, on a case-by-case basis, for the final disposal of confiscated property in cases other than the enforcement of a confiscation order.

Article 58. Financial intelligence unit

Article 58

States Parties shall cooperate with one another for the purpose of preventing and combating the transfer of proceeds of offences established in accordance with this Convention and of promoting ways and means of recovering such proceeds and, to that end, shall consider establishing a financial intelligence unit to be responsible for receiving, analysing and disseminating to the competent authorities reports of suspicious financial transactions.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

Financial Monitoring Unit (“FMU”)

In order to strengthen the AML/CFT regime in Pakistan and to fulfill the FATF’s obligations, Financial Intelligence Unit of Pakistan (named Financial Monitoring Unit) was established in 2007 under Section 6 of the Anti-Money Laundering Ordinance-2007 in October 2007 (AML Act, 2010). (which can be accessed at link:

<http://www.fmu.gov.pk/docs/laws/Anti-Money%20Laundering%20Act%202010-As%20amended%20upto%20May%202016.pdf>).

Anti-Money Laundering Act 2010 is the comprehensive document which plays a central part in overall AML/CFT regime of Pakistan.

Powers of FMU:

Under section 6 of Anti-Money Laundering Act 2010, Financial Monitoring Unit (FMU) is authorized:

- To receive Suspicious Transaction Reports (STRs) & Currency Transaction Reports (CTRs), analyze them and disseminate necessary information or materials, on a confidential basis to the concerned investigation or prosecuting agencies for inquiry or other action under AML Act or any other applicable laws.
- To maintain database of STRs, CTRs and other materials that may be relevant to the work of FMU.
- To co-operate with Financial Intelligence Units (FIUs) of other countries.
- To represent Pakistan at all international and regional forums that relate to the work of FMU.
- To frame regulations in consultation with SBP and SECP for ensuring receipt of Suspicious Transaction Reports and CTRs from the financial institutions and non-financial businesses and professions
- To recommend to the regulatory authorities of reporting entities to issue regulations as considered necessary in the context of combating money laundering and financing of terrorism, including customer due diligence and ancillary record-keeping. {The reporting entities mainly include financial institutions and non-financial businesses and professions whereas the main regulatory authorities of reporting entities include State Bank of Pakistan (SBP) and Securities and Exchange Commission of Pakistan (SECP)}
- To enter into arrangements with domestic agencies and authorities or engage a financial institution or an intermediary or such other non-financial businesses and professions or any of its officers as may be necessary for facilitating implementation of the provisions of AMLA 2010.

National Executive Committee/General Committee:

Under section 5 of AMLA 2010 the National Executive Committee (NEC) was established and designated the responsible authority to review and oversee the implementation of policies against ML and TF. The NEC is chaired by the Minister for Finance and includes relevant Ministers. The NEC is assisted by the General Committee (GC) consisting of the Secretaries of the relevant departments/ministries.

Anti-Money Laundering Regulation in 2015:

In furtherance of its role, FMU has issued AML Regulation in 2015 (which can be accessed at link: <http://www.fmu.gov.pk/docs/AMLRegulations2015.pdf>) to provide the guidelines to Financial Institutions/ non-financial businesses and professions (NFBP) on the manner in which suspicious transactions shall be reported and additional information supplied to the FMU. In AML

Regulation 2015, Red Flag Indicators for reporting of STRs have also been provided for the guidance of reporting entities of different sectors.

Frequently Asked Questions (FAQs) for reporting of CTRs

Frequently Asked Questions (FAQs) for reporting of CTRs have been provided on FMU's website. Contact numbers and departmental e-mail address are also provided on the website to facilitate the reporting entities.

STRs Receipt, Analysis and Dissemination of Intelligence:

Reporting Entities are required under section 7 (1) of AML Act 2010 to report suspicious transactions to FMU wherever they encounter any suspicion of money laundering, terrorist financing and/or any other predicate offence mentioned in AML Act 2010 with respect to transaction(s) or activity (ies) of individuals or entities. There is no threshold for reporting of STRs. On the other hand, Currency Transaction Reports (CTRs) are threshold-based cash reports and such reports may not be suspicious *per se*. CTRs are generally utilized during analysis of STRs. The threshold for CTR reporting as notified by the Government is Rupees Two Million or above. The flow of Suspicious Transaction Reports at FMU is provided below.

goAML:

FMU was previously using Electronically Database Capturing System (EDCS) for maintaining the database of received STRs/CTRs and for the analysis purposes. EDCS, even though quite elementary and designed primarily for storage of CTR & STR information, had been used extensively and effectively for this purpose. However, there was a need for a secure & automated system that could further augment the analytical capabilities with identification and pattern matching functionalities. The goAML Analytical Suite was identified in 2010-11 as the solution that fulfils all these requirements. The goAML application is a fully integrated software solution developed specifically for use by Financial Intelligence Units (FIU's) and is one of UNODC's strategic responses to financial crime, including money-laundering and terrorist financing. With goAML, an analyst can perform in-depth analysis of STRs and CTRs much more effectively and efficiently with the help of logical conditioning. Furthermore, goAML system is deployed in over 42 countries which makes it a uniquely standardized toolset that could potentially be used for mutual sharing of information amongst the FIUs.

FMU decided to switch from EDCS to goAML. The deployment of the goAML system was done in phases and FMU implemented this automated reporting system goAML with effect from January 01, 2019.

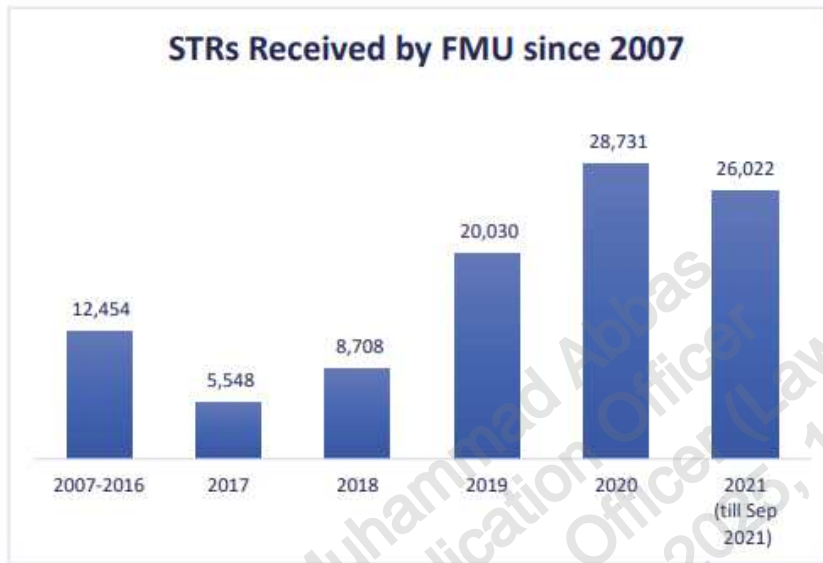
Examples of the implementation

FMU

FMU has received numerous STRs on suspicion of Corruption, embezzlement of funds and other such offences from the different reporting entities which after conducting thorough analysis were shared with different reporting entities.

Total STRs received at FMU:

A total of 101,493 STRs have been reported to FMU by different reporting entities till September 2021. The year wise segregation is provided below:



STR REPORTING-SECTOR WISE-2021

SUMMARY

	Q1	Q2	Q3	Total
Banking Sector	5593	6557	6854	19004
Exchange Companies	1768	1608	1703	5079
Non-Banking Sector	788	636	521	1939
Total	8149	8801	9072	26022



STR REPORTING SECTOR WISE-2021

Sr. No.	Reporting of STRs (Institutions Wise)	Q1	Q2	Q3
1	Banking Sector	5593	6557	6848
1	Private Commercial Banks	3385	3996	3990
2	Islamic Banks	389	469	535
3	Foreign Banks	3	2	2
4	Specialized Banks	31	25	18
5	Public Commercial Banks	326	528	487
6	Micro Finance Banks	1459	1537	1816
2	Exchange Companies (A) & (B)	1768	1608	1703
7	Exchange Companies (A)	1622	1482	1541
8	Exchange Companies (B)	146	126	162
3	Non-Banking Sector / NBFIs	321	336	276
9	DFI	8	0	1
10	Insurance	203	230	185
11	Brokerage Firm	27	41	23
12	Asset Management Company	30	29	37
13	Leasing	1	0	0
14	Micro Finance Institutions (MFIs)	52	36	28
15	Modarba Company	0	0	1
16	Investment Bank	0	0	1
4	Supervisory Bodies (SBP, SECP, Directorate DNFBP)	8	20	1
17	State Bank of Pakistan (SBP)	0	0	0
18	SECP	2	17	1
19	Directorate General of DNFBP, FBR (for reporting)	6	3	0
5	SBP BSC, CDNS & PPO	458	262	238
20	SBP, Banking Services Corporation (SBP-BSC)	425	239	223
21	Central Directorate of National Savings	24	19	12
22	Pakistan Post	9	4	3
6	DNFBPs	0	12	
23	Real Estate	0	12	0
7	Electronic Money Institution (EMI)	1	6	6
	Total	8149	8801	9072

Financial Intelligence sent under different Predicate Offences (2015-Jan,2020):

FMU actively conducts analysis of the received STRs, converts them into financial intelligence (if required) and then disseminate this intelligence to relevant LEAs or regulators based on the underlying suspected predicate offences. The number of the FIs sent under different predicate offences to stakeholders from 2015 till January, 2020 is provided below:

ML Related:

S.#	Designated categories of offences as per FATF	Financial Intelligence						
		2015	2016	2017	2018	2019	2020	Total
1	Participation in an organized criminal group and racketeering;				1	0	0	1
2	Trafficking in human beings and migrant smuggling;	3	5	3	1	1	0	13
3	Sexual exploitation, including sexual exploitation of children;			2	1	1	0	4
4	Illicit trafficking in narcotic drugs and psychotropic substances;	2	2	2	8	4	0	18
5	Illicit arms trafficking/Illegal Arms and Ammunition;			2	2	2	0	6
6	Illicit trafficking in stolen and other goods;					0	0	0
7	Corruption and bribery/Unexplained Assets as per NAO/Cheating Public At large/unjustified High Turnover	21	22	36	35	32	1	147

8	Fraud;	8	14	10	11	9	0	52
9	Counterfeiting currency;					0	0	0
10	Counterfeiting and piracy of products;					0	0	0
11	Environmental crime;					0	0	0
12	Murder, grievous bodily injury;	2				0	1	3
13	Kidnapping, illegal restraint and hostage-taking;					0	0	0
14	Robbery or theft;				1	0	0	1
15	Smuggling / Offences under Customs Act	29	27	39	13	6	0	114
15 (a)	Currency Smuggling;					2	0	2
16	Extortion;	1			3	0	0	4
17	Forgery;	1	1		1	0	0	3
18	Piracy; and					0	0	0
19	Insider trading and market manipulation.			1		1	0	2
20	Tax Evasion / Tax Crime		55	192	89	85	5	426
	TOTAL	67	126	287	166	143	7	796

Other:

S.#	Designated categories of offences outside FATF	Financial Intelligence						
		201 5	201 6	201 7	201 8	201 9	202 0	Tot al

1	Regulatory Violation/Regulatory Advice	17	14	72	36	40	5	184
2	Grey Telephony	1		2	2	1	1	7
3	Virtual Currency		1	2	5	0	0	8
4	Currency Smuggling;				1	0	0	1
5	Trade Based Money Laundering (TBML)			17	4	3	0	24
6	Hawala/Hundi	51	32	45	35	28	3	194
7	Illegal Trade in Financial Instruments	1			1	0	0	2
8	Not Determined/Ground Check			2	3	11	1	17
	TOTAL	70	47	140	87	83	10	437

(b) Observations on the implementation of the article

The Financial Monitoring Unit is the national central agency responsible for receiving, analysing and disseminating suspicious transaction reports and currency transaction reports from financial institutions and designated non-financial businesses and professions. It is located within the State Bank of Pakistan as an autonomous body with independent decision-making authority. The Unit conducts operational and strategic analysis and has direct and indirect access to several government and private databases, including border currency declarations, to support its analysis functions. It also conducts temporary freezing of accounts.

The AMLA allows FMU to share, request and receive information relating to ML, TF, predicate offences, and any other information that may be necessary to accomplish the objectives of the AMLA (s.26). The FMU can also share information with foreign FIUs without the need of an MOU based on Section 6(4)(e) of the AMLA.

The Director-General FMU acts as Secretary to the National Executive Committee (NEC) and the General Committee (GC) for AML/CFT. AML/CFT policy is coordinated by the NEC. AML operational activities are coordinated by the GC.

The budget and resources required to carry out the functions of the FMU is subject to approval by the General Committee of the National Executive Committee responsible for administrative oversight of the FMU.

The Financial Monitoring Unit appears to have sufficient resources to perform its functions. It receives suspicious transaction reports and currency transaction reports from reporting entities in soft copy using the goAML system of the United Nations Office on Drugs and Crime.

The Unit has applied to join the Egmont Group of Financial Intelligence Units and its application is currently being processed.

Article 59. Bilateral and multilateral agreements and arrangements

Article 59

States Parties shall consider concluding bilateral or multilateral agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this chapter of the Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Pakistan reported that it has implemented this provision and provided the following information:

State Bank of Pakistan

International Coordination

Pakistan is a member of APG and as per the requirements Pakistan frequently interacts with the international bodies like APG, FATF, World Bank and IMF.

As regards the supervisory cooperation in banking matters, SBP is effectively engaged with foreign counterparts by entering into MOUs with foreign regulatory authorities on bilateral basis. Under this mechanism, SBP has so far signed twenty three (23) MOUs/Agreements with the regulatory authorities of Sri Lanka, Vietnam, Bahrain, Indonesia, Mauritius, Bangladesh, Azerbaijan, Turkey, Syria, Oman, Kyrgyzstan, Hong Kong, Qatar, Kazakhstan, China, Jordan, Belarus, Nepal, Philippines, Russia, Tunisia, Belgium and Poland.

The MOUs generally cover the following areas of cooperation:

- a) Supervisory Information sharing for opening of new bank branches in respective jurisdiction
- b) Onsite inspections
- c) Support, in case of a material supervisory concern
- d) Training / capacity building
- e) Exchange of experts' visits
- f) Bilateral cooperation on matters of mutual interest

During the last three years i.e 2018-2020, there were 58 cases where information/feedback on foreign nationals was sought and received from foreign central banks/Regulators to meet the Fitness & Proprietary (FPT) requirements to implement entry controls in banking sector.

1. FMU

Pakistan is the member of APG and as per the requirements; it frequently interacts with the international bodies like APG and FATF. FMU also informs, advises and cooperates with

supervisory authorities, law enforcement agencies, reporting entities and exchanges information domestically and internationally to combat money laundering and terrorism financing.

Section 6(4)(e) and (j) of AML Act, 2010 requires FMU to cooperate with financial intelligence units in other countries and to make reciprocal arrangements to share, request and receive information relating to money laundering and financing of terrorism; Moreover, it further requires FMU to enter into arrangements with domestic agencies and authorities or engage a financial institution or an intermediary or such other non-financial businesses and professions or any of its officers as may be necessary for facilitating implementation of the provisions of AML Act.

International Cooperation:

Coordination / cooperation between financial intelligence units (FIUs) is vital in the global fight against money laundering and terrorism financing. FIUs share financial transaction information and intelligence with a number of counterpart FIUs as this information exchange benefits not only the operational work of the FIUs, but also law enforcement agencies in tracking the international movements of the proceeds of crime. Generally, FIUs formalize international exchange understandings through some form of exchange instruments e.g., Memorandum of Understanding (MOU), Exchanges of Letters or through the forum of Egmont Group.

Pakistan’s Egmont Group Membership:

FMU’s Egmont Group is being processed by FMU’s co-sponsors (FinCEN-USA and JAFIC-Japan).

MOUs Signed/In Process with other FIUs:

FMU has signed 15 MoUs, for exchange of information related to money laundering and terrorist financing with other countries. The standard format of MoU is provided at the end. The details of MoUs are as follows:

MOUs Signed:

S.#	Name of Country
1	Iran
2	Sri Lanka
3	Turkmenistan
4	Turkey
5	Kazakhstan
6	UK
7	Qatar
8	Malawi
9	China
10	Lebanon
11	Seychelles
12	UAE
13	Australia
14	Tajikistan

15	Malaysia
----	----------

Information exchange with other FIUs and agencies:

Despite the fact that Pakistan is not a member of Egmont Group, FMU continued its support and coordination with other international FIUs and agencies. The year wise data related to inward and outward international requests for information is provided as under:

International Cooperation

As on 31.01.2020

Data for International Requests (2011-2020)								
Incoming					Outgoing			
Year	Requests Received	Responded	Pending / No Action Required	Voluntary Disclosures Received	Requests Made	Responses Received	Pending / No Action Required	Voluntary Disclosures Made
2011	2	2	0	0	0	0	0	0
2012	2	2	0	0	0	0	0	0
2013	0	0	0	0	0	0	0	0
2014	3	3	0	1	0	0	0	0
2015	3	3	0	2	1	1	0	0
2016	0	0	0	0	1	1	0	0
2017	8	6	2	0	2	1	1	0
2018	5	4	1	1	4	1	3	0
2019	7	7	0	1	7	1	6	0
2020	0	0	0	0	38	0	38	0
Total	30	27	3	5	53	5	48	0

Visit of Delegation of UK Government Officials (1-2 October 2019):

A delegation of officials of United Kingdom (UKFIU) accompanied by the NCA's International Corruption Unit and the NCA International Team visited Financial Monitoring Unit, Karachi during 1-2 October 2019. During the visit, the UKFIU delegation held multiple meetings with Senior Officials of the Regulatory Bodies and Law Enforcement Agencies to discuss coordination among authorities on AML/CFT and FMU. The UK Delegation also briefed the participants about the JMLIT Model and the idea of forming a similar model in Pakistan was also discussed. Earlier this year, in May 2019, the Financial Monitoring Unit signed an MOU with the UK Financial Intelligence Unit.

Visit of Officials of Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK), Financial Intelligence Unit of Indonesia 17-19 December 2019:

A senior level delegation comprising of officials from FIU Indonesia, on the invitation of Pakistan, visited Pakistan from 17-19 December 2019. The purpose of the visit of Indonesia delegation to Pakistan was to seek guidance and learn from Indonesia's experiences in reforming Pakistan's AML/CFT framework. During the visit to Pakistan, the Indonesian delegation interacted with key stakeholders responsible for AML/CFT related work. This visit provided an opportunity to highlight the actions taken by Pakistan for implementation of the FATF Action Plan and further strengthen relations between technical sides of both countries dealing with AML/CFT issues.

Standard format of MoU:

MEMORANDUM OF UNDERSTANDING (MOU)

BETWEEN FINANCIAL MONITORING UNIT OF PAKISTAN AND FINANCIAL INTELLIGENCE UNIT OF CONCERNING COOPERATION IN THE EXCHANGE OF FINANCIAL INTELLIGENCE RELATED TO MONEY LAUNDERING, ASSOCIATED PREDICATE OFFENCES AND TERRORISM FINANCING

The Financial Monitoring Unit Government of the Islamic Republic of Pakistan and the Financial Intelligence Unit of....., (hereafter referred to individually as an "Authority" and collectively as the "Authorities")

Desire, in a spirit of cooperation and mutual interest, to facilitate the analysis concerning cases of suspected money laundering, associated predicate offences and terrorism financing, with a view to disseminating information which may ultimately result in investigations and prosecutions by competent authorities in their respective Countries.

Have reached on the following Understanding:

Article I

General Principle

The Authorities shall implement the provisions of this MoU in conformity with their national laws and international agreements to which their countries are parties.

Article II

Purpose

1. The Authorities shall cooperate by providing to each other, upon request, such information that:
 - a) is relevant in the analysis and investigation of money laundering, terrorism financing and related criminal activities;
 - b) is in their possession or they may access to; and
 - c) they are authorized by law to collect.
 - d) In particular, the authorities will provide the following types of information, based on their respective sources and powers:

- i. Information in respect of Suspicious Transaction Reports (STRs)/ Suspicious Activity Reports (SARs).
- ii. Information in respect of Threshold-Based Disclosure. [in our case CTRs-state type and content].

2. The cooperation and exchange of information between the authorities shall take place in accordance with their respective policies and procedures.

3. The Authority making a request for information shall be called the “Requesting Authority” and the Authority to whom the request is made shall be called the “Requested Authority”.

ARTICLE III

Request for Information

1. Each request for information shall be accompanied by:

- (a) a brief statement of the relevant facts known to the Requesting Authority;
- (b) all available background information concerning the suspected crimes, charges, if any;
- (c) the reason for request and the purpose for which the information will be used; and
- (d) the details of the authorities that will use the requested information.

2. Wherever the requested information would pertain to external sources, the Authorities shall mutually decide the possible conditions concerning the need to disclose elements of the requests to perform the necessary enquiries into external sources.

3. The authorities shall not refuse to provide assistance on the grounds that:

- a) the request is also considered to involve fiscal matters;
- b) laws require financial institutions or designated non-financial businesses and professions (except where the relevant information that is sought is held under circumstances where legal privilege or legal professional secrecy applies) to maintain secrecy or confidentiality.
- c) there is an inquiry, investigation or proceeding underway in the country of the Requested Authority, unless the assistance would impede that inquiry, investigation or proceeding;
- d) the nature or status (civil, administrative, law enforcement etc.) of the Requesting Authority is different to its counterpart;
- e) the case to which the request refers to is not considered relevant or suspicious or the specific type of predicate offence is not known in the analytical phase.

ARTICLE IV

Procedures

1. All requests and replies shall be communicated to and by the following contacts by email, courier or facsimile:

For Requesting Authority:

[*Name, designation & contact details*]

For Requested Authority:

[*Name, designation & contact details*].

2. All communications between the Authorities shall take place in the English language.

3. The Requested Authority shall acknowledge receipt of the requests and shall respond to such requests in a timely manner. The Requested Authority shall further use its best efforts to provide interim or partial responses in a timely manner in cases where there may be a delay in providing a full response.

Article V

Use of Information

1. The information or documents obtained from the Disclosing Authority shall not be shared with any third party by the Requesting Authority except as specified in the request, nor be used for administrative, prosecutorial or judicial purposes without prior written consent of the Requested Authority.

2. The Requesting Authority shall not permit the use or release of any information or document obtained from the Disclosing Authority for purposes other than those stated in this MoU, without the prior written consent of the Disclosing Authority.

3. The Requesting Authority shall be responsible for any unauthorized disclosure of information, including disclosure by a third party which has received information directly or indirectly from the Requesting Authority.

4. Any refusal to provide the prior consent will be appropriately motivated and explained and the Authorities will explore alternative ways (e.g. through mutual legal assistance channels) to ensure that the information exchanged can be used by competent law enforcement agencies and prosecutors.

5. Upon request and whenever possible, Authorities will provide feedback on the use of the information provided, as well as on the outcome of the analysis conducted, based on the information provided.

Article VI

Confidentiality

1. The Authorities shall apply, and cause to be applied, strict controls and safeguards to ensure that the information exchanged between them is used only in an authorized manner and treated in a confidential manner.

2. The information received in the application of this MoU shall be confidential, subject to official secrecy and protected by the same confidentiality as is provided by the national legislation of the Requesting Authority for similar information from its national sources.

Article VII

Limitations

The requests for information may be refused by the Disclosing Authority, if assistance is contrary to its national laws, international agreements or to national security, sovereignty or interest, or public order. The Requesting Authority shall be informed of the reason for refusal.

Article VIII

Amendment

1. This MoU may be amended or modified at any time through mutual written consent of the Authorities.

2. The amendment shall enter into force in the like manner as provided in Article X(1) of this MoU.

Article IX

Settlement of Disputes

Any difference of opinion or dispute between the Authorities on any matter concerning the application or the interpretation of this MoU shall be amicably settled by them through bi-lateral discussions; and, in the event that the Authorities fail to resolve any difference or dispute within a period of three months, such difference shall be referred to the respective Governments of the Authorities for amicable settlement through negotiations.

Article X

Entry into Force, Duration and Termination

1. This MoU shall enter into force on the date of signatures and shall remain valid unless terminated.

2. Either Authority may terminate this MoU at any time, after the expiry of a period of one year following its entry into force, by giving a notice of three months to the other Authority of its intention to terminate this MoU.

3. The obligations stipulated in Articles V, VI and IX of this MoU shall continue to bind the Authorities, notwithstanding the termination thereof, unless the Authorities otherwise agree.

In Witness Whereof this MoU has been signed at _____ on [date] by the duly authorized representatives of the Authorities, in two originals, in the English language.

For the Financial Monitoring Unit of
Pakistan _____
Director General

For the Financial Intelligence Unit of
_____ Signing
Authority

NAB

To enhance international cooperation in matters pertaining to corruption NAB has signed following Memorandum of Understandings (MoUs) with relevant agencies.

- Memorandum of Understanding with Ministry of Supervision (Mos), Government of The People's Republic of China
- Memorandum of Understanding with Accounts chamber of Russian Federation,
- Memorandum of Understanding with Australian Federal Police (AFP)

Memorandum of Understandings (MoUs) have been initiated with relevant Anti-Corruption Agencies of following countries and are under process at various levels of approval

- Federal Bureau of Investigation of the United States of America
- Malaysian Anti-Corruption Commission (MACC)
- United Kingdom (UK)
- Ukraine

Tajikistan.

Examples of the implementation

Complete information about signing of MoUs and international cooperation has been provided in reply of question 2 above.

(b) Observations on the implementation of the article

Pakistan is a party to a number of bilateral and multilateral international cooperation agreements in the areas of crime control and the tracing and recovery of proceeds of crime.