

SBP Amendment Act 2021

Salient Proposed Changes in the
State Bank of Pakistan Act, 1956

Background

- International experience and economic literature have demonstrated that countries with an independent and accountable central bank have lower inflation and greater financial stability over long periods of time.
- This is because independent central banks have their objectives clearly specified and are held accountable for their actions to achieve their objectives. Typically, in modern central banks these objectives prioritize maintaining price and financial stability, which is a key requirement for improving people's livelihood and sustained economic growth.
- In Pakistan, the role of the State Bank of Pakistan (SBP) was first defined in the State Bank of Pakistan Act 1956. Since then, the SBP Act has been amended several times to reflect changes in economic thought globally, including advocating for an independent role of central banks. Major revisions in the SBP Act came in 1994, 1997, 2012 and 2015. The introduction in parliament of SBP Amendment Act 2021 is a continuation of that process to modernize the central bank.
- The proposed amendments in the Act seek to clearly define the objectives of the SBP, improve its functional and institutional autonomy to achieve its objectives, and strengthen its accountability in achieving its objectives. It is important to note that the proposed amendments are not only based on international best practices in central bank legislations but also take into account ground realities in Pakistan.

Purpose of Amendments

In light of international best practices and domestic experiences, legal framework of SBP is being amended to:

- i. Clearly define the objectives of SBP to improve its accountability
- ii. Outline SBP's functions in line with its objectives
- iii. Provide necessary financial resources to help achieve objectives
- iv. Increase functional and administrative autonomy of SBP
- v. Improve transparency in operations of SBP
- vi. Strengthen accountability by making oversight functions stronger and enhancing reporting requirements

First, by defining objectives more specifically, SBP accountability is being enhanced

Existing:

Preamble: secure monetary stability and fuller utilization of the country's productive resources

Proposed:

- **Primary objective:** Domestic Price stability
- **Secondary objective:** Financial Stability
- **Tertiary objective:** Support Government's economic policies to foster development and fuller utilization of resources

Second, in order to achieve these objectives,
SBP functions are being suitably aligned...

Existing:

Dispersed

Proposed:

Collated under a new section after refinement and discontinuation of certain functions (i.e. quasi-fiscal operations)

... and SBP is being provided with sufficient financial resources (1)
Share Capital

Existing:

- **Authorised and paid-up capital:** One hundred million Rupees

Proposed:

- **Authorised capital:** Five hundred billion
- **Paid-up capital (initial):** One hundred billion

... and SBP is being provided with sufficient financial resources (2)

Sufficiency of Capital and Reserves

Existing:

- None

Proposed:

- Paid up capital and general reserves to increase to 8% of the monetary liabilities of the Bank through retention of 20% of distributable profits each year
- General Reserve only to be used for increasing capital or cover losses

... and SBP is being provided with sufficient financial resources (3)

Recapitalization

Existing:

- None

Proposed:

If capital and general reserves fall below zero (-ve):

- The board to prepare a report on causes and extent of shortfall
- The Federal Government to transfer to the Bank necessary amount in cash or negotiable instruments to restore paid-up capital

... and SBP is being provided with sufficient financial resources (4)
Distribution of Profits

Existing:

No specific formula; to be decided with prior approval of Government

Proposed:

Based on a formula to be incorporated in the SBP law; approval of
Government not required

Functional/institutional autonomy of SBP is also being strengthened (1)

Government Borrowing

Existing:

Limited government borrowing (i.e. zero net quarterly borrowing)

Proposed:

No new government borrowing

Functional/institutional autonomy of SBP is also being strengthened (2)

Quasi-Fiscal Operations

Existing:

SBP is mandated to carry out quasi-fiscal operations, including rural credit, industrial credit, export credit, loans guarantees, and housing credit

Proposed:

Quasi-fiscal operations, defined as monetary actions taken on behalf of the government, shall be discontinued

However, refinancing facilities, which SBP has used to support access to credit in underserved sectors still allowed

Functional/institutional autonomy of SBP is also being strengthened (3)

Changed Mechanism for Coordination between SBP and Government

Existing:

Monetary and Fiscal Policies Co-ordination Board

Proposed:

Governor and Minister of Finance to establish liaison. The Governor and the Finance Minister shall establish a close liaison with each other and shall keep each other fully informed on all matters which jointly concern the Bank and the Finance Division.

Functional/institutional autonomy of SBP is also being strengthened (4)

Action in Good Faith and Indemnity

Existing:

Every [person in the service] of the Bank shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code

Proposed:

Additions: No suit, prosecution or any other legal proceeding including for damages shall lie against the Bank, Board of Directors or member thereof, Governor, Deputy Governors, member of any Board committee and monetary policy committee, officers and employees of the Bank for any act of commission or omission done in exercise or performance of any functions, power or duty conferred or imposed by or under this Act upon such persons or any rules and regulations made thereunder or any legislation administered by the Bank unless such act is done in bad faith and with mala fide intent

Functional/institutional autonomy of SBP is also being strengthened (4)

Action in Good Faith and Indemnity... Contd

Proposed:

Additions ... contd:

- The Governor, Deputy Governors, Directors, members of any Board committee and monetary policy committee, officers and employees of the Bank shall not be liable in their personal capacity for any act of commission or omission done in their official capacity in good faith and in case of any such proceedings as mentioned in sub-section (1), they shall be indemnified by the Bank which shall bear all the expenses thereof, till final decision of the case
- No action, inquiry, investigation or proceedings shall be taken by NAB, FIA or Provincial Investigation Agency, bureau, authority or institution by whatever name called without prior consent of the Board of Directors of State Bank
- Also applicable *mutatis mutandis* to the former directors, Governors, Deputy Governors

Further, administrative autonomy is being strengthened (1)

Appointment

POSITION	EXISTING	PROPOSED
Non-Executive Directors of the Board	Government	President; on the recommendations of the Government. Secretary Finance no longer ex-officio member of the SBP Board
External Members of Monetary Policy Committee (MPC)	Federal Government on recommendation of the Board	No change
Governor	President	President on recommendation of the Government
Deputy Governors	Government. Number of the Deputy Governors not specified.	Federal Government from a panel of three recommended by the Governor following consultation with the Finance Minister. Three Deputy Governors to be appointed.

Further, administrative autonomy is being strengthened (2)

Terms of office

POSITION	EXISTING	PROPOSED
Non-Executive Directors of the Board	3 years; eligible for reappointment	5 years; two terms
External Members of MPC	3 years; two terms	5 years; two terms
Governor	3 years; eligible for a second 3-year term	5 years; eligible for a second 5-year term
Deputy Governors	Up to 5 years; multiple terms	5 years; eligible for a second 5-year term

Further, administrative autonomy is being strengthened (3)

Removal

POSITION	EXISTING	PROPOSED
Non-Executive Directors of the Board	Board; <i>inter alia</i> for misconduct; breach of trust	President; <i>inter alia</i> for serious misconduct as determined by a court of law
External Members of MPC	Board; <i>inter alia</i> for misconduct; breach of trust	Government, <i>inter alia</i> for serious misconduct as determined by a court of law
Governor	President; <i>inter alia</i> for misconduct or breach of trust	President; <i>inter alia</i> for serious misconduct as determined by a court of law
Deputy Governors	<i>No provision</i>	Federal Government; <i>inter alia</i> for serious misconduct as determined by a court of law, on the recommendation of the Governor with approval of the Board

Third, transparency and controls are being enhanced (1)

Executive Committee

- Executive Committee to make policy decisions related to Bank's core functions as well as administration and management matters
- Consisting of Governor, Deputy Governors, Executive Directors and other officers as needed
- Only Governor and Deputy Governors have right to vote

Third, transparency and controls are being enhanced (2)

External Audit

Existing:

Appointment of Auditors by the Board

Proposed:

Comprehensive provision for the appointment of external auditors by the Audit Committee and their responsibilities

Third, transparency and controls are being enhanced (3)

Audit Committee and Chief Internal Auditor

Existing:

No existing provision

Proposed:

Audit Committee comprising three or more non-executive Board members to be constituted by the Board. Responsibilities, duties and terms of reference to be defined by the Board (to include some mandatory functions)

Chief Internal Auditor to be appointed by the Board as an employee of the Bank on the recommendation of the Audit Committee

Third, transparency and controls are being enhanced (4)

Conflict of Interest

Existing:

Brief; and only covers members of the Board

Proposed:

Comprehensive; and covers Governor, Deputy Governors, non-executive directors, and external members of Monetary Policy Committee (MPC).

“No person appointed under section 10A shall act as a representative of any commercial, financial, agricultural, industrial or other interest, or receive or accept directions therefrom, in respect of duties to be performed under this Act. Every such person shall fully and promptly disclose to the Board any interest, whether personal, commercial, financial, agricultural, industrial or other, which he or any dependent member of his family may directly or indirectly hold or be connected with and which becomes the subject of consideration by the Board, and shall recuse themselves from any Board deliberations and voting related thereto...”

Fourth, accountability is being strengthened

Accountability to Parliament

Existing:

The Board shall submit a quarterly report to the Majlis-e-Shoora (Parliament) on the state of the economy

Proposed:

- The Governor shall submit annual report before the Parliament regarding the achievement of the Bank's objectives, conduct of monetary policy, state of the economy and the financial system.
- In addition, the Parliament may require any senior official to attend at such additional times as may be required.
- The Bank shall, not less than twice a year, publish and submit to the Parliament and the Minister of Finance a state of the economy report.