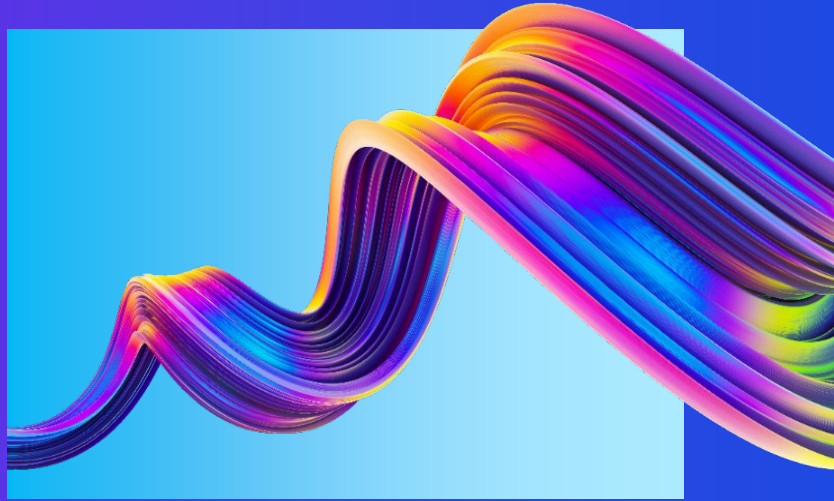


Approval of capital expenditure and disposal of assets



Securities Exchange Commission of Pakistan has amended Companies (General Provisions and Forms) Regulations, 2018 vide S.R.O. 627(I)/ 2023 dated 22 May 2023 (**SRO**) by adding a new regulation 20A which states that for the purpose of clause (i) of sub-section (2) of section 183 of the Companies Act, 2017 the following limits would be observed in case of capital expenditure on any single item and on disposal of a fixed asset by the following type of companies:

| Type of Company | Limit of Capital Expenditure on any Single Item | Limit of Book Value for Disposal of Fixed Asset |
|---|---|--|
| <ul style="list-style-type: none"> Public interest company and a large sized company | More than Rs. 25 million | More than Rs. 5 million or 1% of the total assets whichever is lower |
| <ul style="list-style-type: none"> Medium sized and a small sized company | More than 5 million | More than Rs. 1 million or 1% of the total Assets whichever is lower |

Powers of approval are entrusted in the 'committee of the Board' [**Committee**] and the 'board of directors' [**Board**], in the manner shown herein:

Committee: may approve capital expenditure or disposal of fixed assets **not exceeding** the foregoing limits – other than transactions relating to land and building. The Committee is required to bi-annually submit a *post facto* report to the Board for its information.

Board: may approve capital expenditure or disposal of fixed assets:

- Irrespective of** the foregoing limits;
- Additionally, in case of land and building with the consent of members in general meeting or by way of authorization in terms of sub-section (3) of section 183 of the Act.

The language of SRO gives an impression that approval, as aforesaid, is required to be obtained prior to consummating a transaction.

We understand that a subordinate legislation cannot override its statute. In the instant case, the statute does not place any restriction i.e. obtaining prior approval, therefore, *post-facto* approval may also be obtained irrespective the language of the SRO. In case if language of SRO is to prevail, we perceive problem in effectuating transaction in many of the cases of multinational, listed and unlisted companies.

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