



# THE MODARABA COMPANIES AND MODARABA (FLOATATION AND CONTROL) ORDINANCE, 1980



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**THE MODARABA COMPANIES AND MODARABA (FLOATATION AND CONTROL)  
ORDINANCE, 1980**

**ORDINANCE No. XXXI OF 1980**

*[26th June, 1980]*

**An Ordinance to provide for matters relating to registration of modaraba companies and the floatation, management and regulation of modarabas.**

WHEREAS it expedient to provide for matters relating to registration of modaraba companies and the floatation, management and regulation of modarabas and for matters connected therewith or ancillary thereto:

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (*C.M.L.A Order No. 1 of 1977*), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:—

**PART I**

**PRELIMINARY**

**1. Short title, extent and commencement.**— (1) This Ordinance shall be called the Modaraba Companies and Modarabas (Floatation and Control) Ordinance, 1980.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

**2. Definitions.**—(1) In this Ordinance, unless there is anything repugnant in the subject or context,—

<sup>1</sup>[(a) "Commission" means the Commission as defined in the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997)].

<sup>1</sup>[(ab) "modaraba" means a business in which a person participates with his money and another with his efforts or skill or both his efforts and skill and shall include Unit Trusts and Mutual Funds by whatever name called;

(b) "Modaraba Certificate" means a certificate of definite denomination issued to the subscriber of the modaraba acknowledging receipt of money subscribed by him;

(c) "modaraba company" means a company engaged in the business of floating and managing modaraba;

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<sup>1</sup>Ins. are lettered by Act 4 of 1999, s.13.

(d) "Modaraba Fund" means a fund raised through floatation of modaraba:

(e) "prescribed" means prescribed by rules;

(f) "Registrar" means the Registrar appointed under section 3;

(g) "rules" means rules made under this Ordinance; and

(h) "Tribunal" means a Tribunal constituted under section 24.

(2) All terms and expressions used but not defined in this Ordinance shall have the same meaning as in Companies Act, 1913 (VII of 1913).

**3. Appointment of Registrar.** The Federal Government, may by notification in the official Gazette, appoint a person to be the Registrar for the purpose of this Ordinance.

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## PART II

### REGISTRATION OF MODARABA COMPANIES

**4. No company to Operate without registration.** No modaraba company shall operate without registration with the Registrar.

**5. Eligibility for Registration.**—(1) A company shall be eligible for registration as a Modaraba company if it fulfils the following conditions, namely:—

(a) that, it is registered under the Companies Act, 1913 (VII of 1913), or is a body corporate formed under any law in force and owned or controlled, whether directly or through a company or corporation, by the Federal Government or a Provincial Government;

(b) that, being a company solely engaged in the floatation and management of modaraba, it has a paidup capital of not less than <sup>1</sup>[two and a half million] rupees;

(c) that, none of its directors, officers or employees has been convicted of fraud or breach of trust or of an offence involving moral turpitude;

(d) that, none of its directors, officers or employees has been adjudged an insolvent or has suspended payment or has compounded with his creditors.

(e) that, its promoters are, in the opinion of the Registrar, persons of means and integrity and have knowledge of matters which the company, may have to deal with as a modaraba company; and

(f) that, being a company also engaged in business other than floatation and management of modaraba, it has a paid up capital of such amount and of such nature as may be prescribed.

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<sup>1</sup>Subs. by the Modaraba Companies and Modaraba (Floatation and Control) (Second Amendment) Act, 1985 (13 of 1985), s. 2.

**6. Application for Registration.**—(1) A company which is eligible for registration as a modaraba company may make an application for registration to the Registrar in such form and with such documents as may be prescribed.

(2) The Registrar, if he is satisfied after such enquiry and after obtaining such further information as he may consider necessary that the applicant is eligible for registration and that it is in the public interest so to do, may grant registration to such company on such conditions as he may deem fit.

(3) In particular and without prejudice to the generality of the powers conferred by sub-section (2), such conditions may include—

- (i) investments to be made;
- (ii) information and returns to be furnished to the Registrar;
- (iii) business to be undertaken; and
- (iv) restriction on transfer of shares by promoters, sponsors or persons holding controlling interest.

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### PART III

#### PROVISIONS APPLICABLE TO MODARABAS

**7. Types of modaraba.**— (1) Modaraba may be of two descriptions—

- (i) *Multipurpose Modaraba*: that is to say a modaraba having more than one specific purpose or objective.
- (ii) *Specific purpose Modaraba*: that is to say a modaraba having one specific purpose or objective.

(2) A modaraba may be either for a fixed period or for an indefinite period.

**8. Creation and maintenance of modaraba.**—(1) A modaraba company registered under section 4 shall apply to the Registrar, in such form and with such documents as may be prescribed, for permission to float modaraba.

(2) An application for floatation of modaraba shall be accompanied by a prospectus which shall contain, *inter alia*, the following information, namely:—

- (i) the name and type of the modaraba;
- (ii) the conditions and amounts of the modaraba to be floated and the division thereof into Madaraba Certificate of fixed amount;
- (iii) the business scheme, prospects and mode of distribution of profit;