

From
Karachi Since 1984 Islamabad Since 2008

ISSN-0257-8603

Quarterly

Insurance Journal

January, February, March 2013



Muhammad Nasim Khan
Speaks



Inside:

- ↪ Reinsurance and It's Types
- ↪ Managing Health Insurance
- ↪ Entrepreneurship
- ↪ Management of 21st Century
- ↪ New Chairman PRCL
- ↪ News Report
- ↪ Legal Section



SALIENT FEATURES - Business account:

Opening Balance Requirements:	Rs. 100,000/-
Min. Monthly Average Balance Requirements:	Rs. 100,000/-*

UNIQUE FEATURE:

If any organization opens **Value Plus Current Account** for Business, then its employees will be eligible to open **Value Plus Saving Account** with an initial **Deposit of Rs. 5,000/-only**.

FREE FACILITIES:

- On-line funds transfer facility
- Issuance of Cheque Books
- Issuance of Pay Orders / Demand Drafts
- Duplicate account statements
- Statement of Account through email (once a month)

SALIENT FEATURES - Individual account:

Opening Balance Requirements:	Rs. 25,000/-
Min. Monthly Average Balance Requirements:	Rs. 25,000/-*

FREE FACILITIES:

- Issuance of **Visa Debit Card**. Annual and replacement fee would apply
- ATM Cash Withdrawal Insurance coverage up to daily cash withdrawal limit of the debit card from Askari Bank ATMs
- 24 hours world-wide "Accidental Death & Permanent Disability" insurance coverage to Debit Card / Visa Debit Card Holders. Rs. 500,000/- and Rs. 700,000/- for Classic and Gold Visa Debit Cards respectively
- 24 hours world-wide "Accidental Death & Permanent Disability" insurance coverage. The sum insured per account holder shall be equivalent to four times of the average balance completed in the last six months maximum upto Rs. 2 Million
- On-line funds transfer facility
- i-Net Banking facility
- SMS Alerts of ATM Cash withdrawal to Visa Debit Card Holders
- Issuance of Pay Orders / Demand Drafts
- Issuance of **2 Supplementary Visa Debit Cards**. Annual and replacement fee would apply
- Issuance of Cheque Books
- Duplicate account statements

That's why Askari Value Plus is not Just another Plus!

Jubilee
GENERAL INSURANCE

B++
A.M. Best

AA+
PACRA

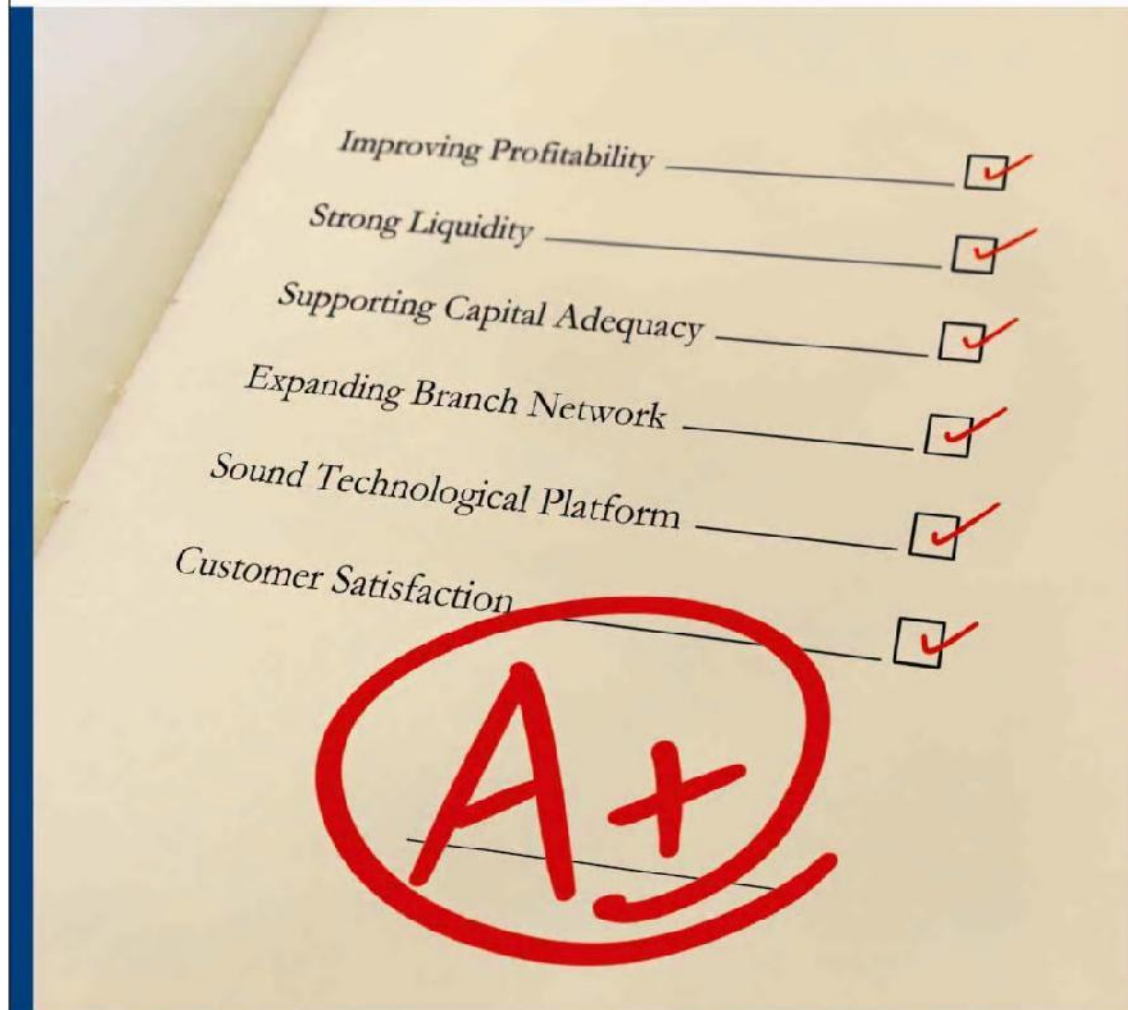
AA+
JCR - VIS

THE HIGHEST IFS* RATED GENERAL INSURANCE
COMPANY OF PAKISTAN BY LOCAL AND
INTERNATIONAL RATING AGENCIES

*Insurer Financial Strength

www.jubileegeneral.com.pk | UAN: 111-654-111

working hard TO MAKE YOU HAPPY



PACRA Upgrades JS Bank's Long Term Rating to "A+"



This is a great moment for the JS Bank family and we owe it all to you, our customers. It's your support that has helped us become one of Pakistan's fastest growing banks and also the number one Primary Dealer in Government Securities, for the past two years.

However, the upgraded rating spurs us on to do more. To develop better products, to provide increasingly dependable services and to make you a celebrated part of our growing family.

Ogilvy & Mather

0800-011-22 | www.jsbl.com
185 Branches in 100 Cities

Pakistan's Fastest Growing Bank
JS BANK

ISSN-0257-8603

Quarterly

Insurance Journal

Karachi - Islamabad
January, February, March 2013

Karachi No.114 Vol. 29
Islamabad No.18 Vol. 5

Editor:

M. Jamaluddin

Legal Consultants:

Hashim Hameed Zaheer & Co.

Published By:

M. Jamaluddin

Office No.5, First Floor, Insaf Plaza,
F-10 Markaz, Islamabad - Pakistan.

Tel: +92-51-2222951

Printed At:

The Army Press

Plot No.1, Street No.40, I & T Center,
G-10/4, Islamabad - Pakistan.

Tel: +92-51-2351135-7

Designed By:

ARTSMITH

Office No.12, 3rd Floor, Rajan Plaza,
F-10 Markaz, Islamabad - Pakistan.

Tel: +92-51-2112765

www.artsmithproductions.com

(Views expressed by the writers are in their individual capacity and Insurance Journal need not share them)

Karachi Office:

No.63, Noor Chamber, Robson Road,
Karachi - Pakistan.

Tel: +92-21-32217184

Islamabad Office:

M. Tahir Amaan (+92-334-8689168)

Office Manager

Office No.5, First Floor, Insaf Plaza,
F-10 Markaz, Islamabad - Pakistan.

Tel: +92-51-2222951

Price: Rs.150/- Annual Rs.600/-
Outside Pakistan: US\$ 100 (Air Postage)

CONTENTS



Insurance Sector on KSE

05



IJ Exclusive

07



Corporate Social Responsibility

11



Security Guards

16



Management of 21st Century

19



Entrepreneurship

21



Reinsurance and It's Types

24



Managing Health Insurance

25



Crops Insurance in Pakistan

27



New Chairman PRCL

31



News Report

33



Legal Section

35





the interest is the
NATION

the objective is
GROWTH

the result is
NATIONAL SAVINGS

the business is
REINSURANCE

and the name is
**PAKISTAN REINSURANCE
COMPANY LIMITED**

Pioneers in the field of Reinsurance in Pakistan

We have been in the business of sharing the liabilities of national companies since 1952, while promoting growth of and training in the Insurance business in Pakistan.

The resultant enormous savings in foreign exchange on reinsurance prima are, in essence, assurances and reassurances for a secure national future.

PAKISTAN REINSURANCE COMPANY LIMITED

Formerly Pakistan Insurance Corporation

Functionaries under Ministry of Commerce, Govt. of Pakistan

PRC Towers, 32-A, Lalazar Drive, M. T. Khan Road, P. O. Box No. 4777, Karachi, Pakistan.

Telephone: 92-21-99202908 to 92-21-99202914

Telefax: 92-21-99202921 to 22

E-mail: prcl@pakre.org.pk Website: www.pakre.org.pk

**INSURANCE SECTOR ON
KARACHI STOCK EXCHANGE**
(Quarter: October, November, December, 2012)

Company	Paid up Capital (Rs. In Million)	Face Value Rs.	Highest Rate Rs.	Lowest Rate Rs.	Turnover of Shares	Announcement During the Quarter
Adamjee Ins. Co. Ltd.	1,237	10.00	74.48	62.77	31,843,000	
American Life Ins. Co. Ltd.	500	10.00	37.44	21.75	275,000	
Asia Ins. Co. Ltd	300	10.00	25.50	20.07	500	
Askari General Ins. Co. Ltd.	324	10.00	16.00	9.95	852,000	
Atlas Ins.	532	10.00	48.80	35.25	635,500	
Beema Pakistan Co. Ltd.	417	10.00	-	-	-	
Business & Industrial Ins co.	86	10.00	-	-	-	
Century Ins. Co. Ltd.	457	10.00	16.79	9.30	3,581,500	
Crescent Star Ins. Co. Ltd	121	10.00	5.39	2.80	89,500	
Cyan Insurnace co. ltd	586	10.00	58.99	47.84	1,593,000	
Dadabhoy Ins. Co. Ltd	50	10.00	-	-	-	
EFU General Ins. Co.	1,250	10.00	97.35	76.75	848,000	
East West Ins. Co. Ltd.	332	10.00	203.07	203.07	20,000	Bonus Issue = 10%
East West Life Assurance Co. Ltd.	500	10.00	9.39	3.51	341,500	
EFU Life Assurance Ltd.	850	10.00	96.00	77.90	782,500	
Habib Ins. Co. Ltd.	495	5.00	15.00	12.50	2,938,000	
Hallmark Ins.	5	10.00	-	-	-	
IGI Ins. Ltd	1,115	10.00	149.99	73.31	11,458,000	
Ittefaq General Ins. Co. Ltd	10	10.00	-	-	-	
Jubilee Life Ins. Co. Ltd	627	10.00	95.00	80.00	454,000	
Jubilee General Ins. Co. Ltd	1,186	10.00	73.18	64.00	201,000	
Pakistan General Ins. Co. Ltd	300	10.00	20.48	14.35	138,500	
Pakistan Guarantee Ins. Co. Ltd	25	10.00	-	-	-	
Pakistan ReIns. Co. Ltd	3,000	10.00	25.10	19.70	28,623,500	
PICIC Ins	350	10.00	10.00	6.50	98,000	
Platinum Ins. Co. Ltd.	120	10.00	-	-	-	
Premier Ins. Co. Ltd.	303	5.00	9.45	7.05	2,149,500	
Progressive Ins. Co. Ltd	85	10.00	-	-	-	
Reliance Ins. Co. Ltd	319	10.00	10.37	7.20	599,000	
Shaheen Ins. Co. Ltd	300	10.00	11.50	8.10	66,500	
Silver Star Ins. Co. Ltd	306	10.00	8.80	5.61	621,500	
Standard Ins. Co. Ltd	8	10.00	-	-	-	
TPL Direct Ins. Co. Ltd	460	10.00	11.32	7.01	3,536,000	
Union Ins. Co. Ltd	82	10.00	-	-	-	
United Ins. Co. Ltd	571	10.00	16.89	7.70	1,148,000	
Universal Ins. Co. Ltd	300	10.00	3.99	2.25	174,000	

Cargo Controllers | Loss Adjusters
Surveyors | Valuation Consultants



PAKISTAN INSPECTION CO. (PVT.) LTD.

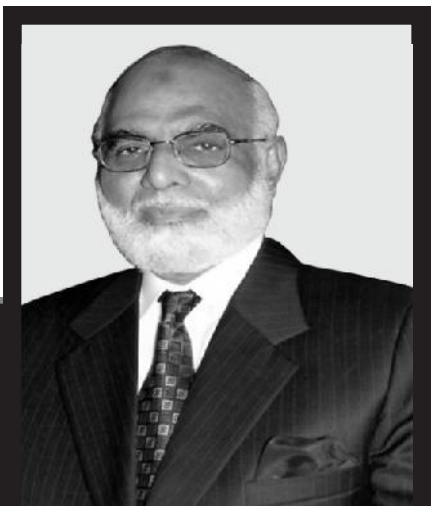
The Emblem of Integrity & Professionalism



ISO Certified: 9001:2008

Head Office: Suite # 316, 3rd Floor, Clifton Centre, Khayaban-e-Roomi, Block-V, Clifton, Karachi. Ph: 92-21-35300281-3, Fax: 92-21-35873410, info@pakistaninspection.com.pk, www.pakistaninspection.com.pk

Zonal Office: Suite # 12, Haidery Plaza, I-9 Markaz, Islamabad. Ph: 92-21-4448784, Fax: 92-21-4448784, islamabad@pakistaninspection.com.pk



Muhammad Nasim Khan

Speaks

Mr. Muhammad Nasim Khan has served the banking industry for over four decades. He was Director General and member Board of an international bank joint venture in Africa. He was Country Manager Srilanka and Maldives. Manage Karachi operations of an international bank and Zonal Chief of Habib Bank. He was the Managing Director Sigma Leasing Corporation Ltd.

Insurance Journal: *You have had a long association with the banking industry of Pakistan and abroad. How would you recall the banking industry of the past say twenty years and compare it with banking of today. Would it be a nostalgic exercise?*

M. Nasim Khan: Yes I have been associated with the banking industry for 3.5 decades and leasing industry for about 1.5 decades. Out of which one decade was my international bank posting as Country Manager, Director General and member of the Board on a subsidiary a Joint Venture.

The higher education (local and foreign) coupled with the quality of specialized education compared to the earlier banking environment and the advanced technology seems to be a major shift. The speedy information, transfers, operations and transactions are now **on line**. The electronic operations are not only quick but saves time and cost. The volume and size of banking today and two decades earlier is a world of difference, but now it is handled by the technology.

I will call the past banking **Feeling Based**. The word **relationship** (customer and bank) which is now used as a common word was earlier used to be meaningful with the meaning of meanings in letter and spirit. The technology, how-so-ever advanced it may be or may become, cannot create a feel and define the true relation of heart and mind but to the extent of completion of documents and formalities only. It has created a distance between the customers and bank executives. Currently KYC has gained the maximum legal and international importance but in fact it is an exercise of completion of document with all required formalities with no personal spirit attached. Earlier in fact there used to be the relationship in actual, knowing all the personal, family, business and family experience, their personal and business attitudes. This can hardly be gained through the documents as against first hand personal experience. Now of course the Volume is large and global contacts and communications are swift.

It is very difficult to compare the past 20 years with the present, for both have got their merits and demerits. But it is for sure that the relationships used to be stronger and professional earlier.

Insurance Journal: *There are many banks operating in Pakistan all equipped with the latest techniques and adequate manpower. It is usually said the level of service to customers is not what it should be, No personalized service. Only nonchalant numerical approach. Your comments please?*

M. Nasim Khan: The technology and adequate manpower, in my considered opinion has not only created a gap between Customer and banker but quality of relationship is positively deteriorated.

You may recall that the major difference between western banking and Asian Banking was that the customer and the manager had hardly seen each other in western operation while in Eastern operation it was other way round. The technology advancement has landed us in the earlier western environment of personal banking.

My one more observation is that the technology advancement was supposed to be threat to manpower instead it has increased manpower in good ratio.

Another observation is that while the call centers are established to provide instant help to customers and said to have saved a lot of time but in my opinion it is more a pain than pleasure. So much time is wasted in the calls of call centers and one has to forcibly listen to their record of product details that are an experience by itself.

Insurance Journal: *How do you see banking industry in Pakistan say 10 years hence?*

M. Nasim Khan: While in Pakistan our population growth rate is of around 3%, it would need more banks and banking services in future. But Industrial, Agricultural and Economic growth is no parallel to the demand of the time. If these sectors growth attains even desirable level, the banking Industry needs to grow faster with new solutions. Thus a big challenge and growth potential is visible in the next one decade.

Insurance Journal: *Research and Development are the backbone for any meaningful growth. What would you say in case of banking industry. Is there serious projects undergoing research work. The role being played by the Bankers Institute of Pakistan?*

M. Nasim Khan: In Pakistan the banks should be catalyst of developing new researches to help the economy and the growth of banks. It is thus essential that every bank and especially big banks should invariably have a research division involved in the research of new local and foreign (exportable) products, their competitive cost, how to minimize the cost of production and sales, improve the quality, search new markets for countries products, define the competitive edge etc.

Agricultural research in Pakistan is far behind which needs information, technique, multiplication of produce, utilization, marketing, products and byproducts and value addition research is essential.

Unfortunately this task has been left to public sector whose inefficiency and proper attention and much less importance than required attached to the issue has left our country much behind to achieve what it could have or should have achieved.

Insurance Journal: *Islamic banking has been introduced in Pakistan. What future do you see for it. Many feel it still lacks the essence and true spirit of Islam. Your comments please?*

M. Nasim Khan: Islamic Banking can become the solution of all banking requirements provided the Islamic scholars equipped with a deep Islamic knowledge also carrying the economic and financial degrees from top universities should be the leaders of the banks.

General comments on Islamic banking “**as being not different from conventional banking**” is nothing but the ignorance of the commentators. Very simple difference is the underline contract of the transaction, how-so-ever similar it would look like the conventional banking. It is something like to offer prayers with NIYAT and WADU and without NIYAT and WADU.

Islamic banking should be taken as religious approach and solution to the economy and financial routing. The bankers and customer both need intentions and education on the

subject. Majority of bank officers/ executives are serving in Islamic banks merely as a job opportunity lacking the Islamic spirit of gaining the built in benefits of the life thereafter. E.g. Your meal becomes 'IBADAT' if you start your meal with BISMILLAH and end at SHUKAR ALHAMDULILLAH but it is simply a meal without it and doesn't provide any additional benefits.

The spirit is lacking on both sides. I wish we could be serious to the issue.

State Bank of Pakistan is equally responsible for its inadequate growth towards Islamic products particularly the assets in government papers etc.

Insurance Journal: *Fiscal policy relates to government taxation and spending while monetary policy affects a nation's money supply and interest rate. Keeping this definition how would you like to comment on the policies and performance of our Government and State Bank of Pakistan?*

M. Nasim Khan: I may not like to dwell upon the subject very bluntly but to restrict to the extent of the appointment of incompetent professionals at fiscal policy desk and monetary policy desk and political pressures on them hampering their fair operations and presentations.

Insurance Journal: *If you are asked to resuscitate our economy, what would be five major steps you would take?*

M. Nasim Khan: The answer is not difficult but the sincere, unbiased, unprejudiced and spiritual attention addressed to the issue and task assignments monitored to be achieved by those who matter, is the simple solution. .

Insurance Journal: *You were also associated with the leasing industry of Pakistan for a long time. Generally it is felt that leasing as an industry could not make a mark as stand alone industry in Pakistan. For survival it had come under the roof of banks as one of its products?*

M. Nasim Khan: In Pakistan Investment Bank module has failed but leasing industry was growing at a normal pace unless the hit of global financial crises, Pakistan was no exception. The capitals were too low and the credit lines of the leasing companies were freezed for adjustment purposes on their first forced default. There was no other product of liability generation except deposit which could have not been possible due to lack of network of the leasing companies.

Banks having large liquidity especially in 2005-2007 invested heavily in leasing particularly in transport sector and were badly hit due to lack of experience, proper scrutiny and follow ups. I would partly make responsible the governor State Bank when the proposal of the then SECP chairman to the governor was denied to create divisions of leasing in the banks with separate capital of leasing portfolio. The governor had agreed in-principal initially but later backed his industry due to the disagreements of some of the presidents of the Banks. Had this proposal been finalized the situation of leasing module, stand alone would have been different.

Insurance Journal: *Insurance penetration in Pakistan is one of the lowest and its relation to GDP is negligible. What measure you suggest to improve the situation?*

M. Nasim Khan: Public and private awareness at large, legislation support, minimize the premiums, educate the beneficiaries their risks and benefits, may be the few which instantly come to my mind.

Insurance Journal: *Takaful companies in Pakistan. Your comments?*

M. Nasim Khan: Having studied much less for adequate understanding and experience about TAKAFUL I would like to add no comments.

Insurance Journal: *As a banker and a very senior leasing executive you must have come in close contacts with insurance industry and its senior executives. What experience you had dealing with insurance industry. What measures you suggest are required to further improve the insurance industry of Pakistan?*

M. Nasim Khan: I am always believer of a large networking in personal and official relationships not necessarily through the insurance/banking business but as a personal asset. Mr. Jamal could turn around an unknown Company into a known entity because of his interpersonal relationships; large assets at his command coupled with capability, sincerity and committed team which is the essence of the success all over.

Insurance Journal: *God has gifted Pakistan with tremendous potential and abundant resources. We have yet to ripe real benefits. Where did we go wrong?*

M. Nasim Khan: We have gone wrong in good governance, ill personal intentions, following personal targets to be achieved in position and wealth, less rather no national loyalty.

Despite the regular scratching the skin of the Country its abundant potential is still bearing the brunt and I am hopeful and positive that few sincere, honest and committed people at the top can change the country's destiny.

Insurance Journal: *Latest banking crisis in CYPRUS. Three main factors responsible for this state of affairs. Lesson to learn?*

M. Nasim Khan: The global financial tsunami is a big lesson by itself over the globe, Cyprus was late to respond to the crises but it could have not avoided thus faced though late. Now they have survived by restructuring and intervention of international funds.

Insurance Journal: *On a personal note, you are now busy writing your biography. Would you like to share one very exciting and lesson learning experience with our readers?*

M. Nasim Khan: It's very difficult to narrate one experience over the service of almost half a century but I will simply say **when a professional becomes thick with his client and deal on personal trust it is destined to devastate.**

The banker or any financial executive is employed for his brain and not for his heart. The moment he listens to the heart he falls prey and lends the institution in an uncalled for problems which lead to NPLs.



Dr Safdar A Butt

*Professor, Faculty of Management Sciences,
& Director, Fiscal Policy Studies Center
Mohammad Ali Jinnah University, Islamabad*

The Concept of Corporate Social Responsibility:

Corporate social responsibility (CSR) is an integral part of Business Ethics. A company owes its existence to the society from which it draws its revenue, its capital and its human resources. It must therefore behave as a responsible member of the society and perform its social duties in much the same manner as an individual is expected to serve his family.

The web site of the pressure group Business for Social Responsibility refers to CSR as follows: "While there is no single, commonly accepted definition of corporate social responsibility, it generally refers to business decision-making linked to ethical values, compliance with legal requirements, and respect for people, communities and the environment". Socially responsible companies have a comprehensive set of policies and programs relating to company's responsibilities towards the society which they integrate with their business operations and decision-making processes. In other words, such companies regard their social role as an inalienable part of their normal business operations. All their commercial decisions and practices are influenced by their consideration for the society in which they operate.

Lord Holme and Richard Watts define CSR as "Corporate Social Responsibility is the continuing commitment by business to behave ethically and contribute to economic

CSR

Corporate Social Responsibility

development while improving the quality of life of the workforce as well as of the local community and society at large."

In USA, CSR is considered more akin to philanthropy, i.e. using a part of the company's profits for charitable purposes, without expecting any direct advantage from such payments. The European model of CSR is more focused on operating the core business in a socially responsible way, i.e. in a way that it helps the society and does not harm its environment. This model works on the assumption that socially responsible businesses help improve the life and wealth of its communities. In turn, this increases peoples' capacity to buy more of their products. During tough economic times, companies should increase their philanthropic efforts to help the communities regain their earning capacity. In other words, the European model offers CSR as a means of improving the companies' as well as the society's sustainability.

There are some social and management scientists who suggest that companies do not really have any owners, they simply belong to the society. Shareholders are providers of funds, but do not own the specific assets of the company. The directors hold the assets of the company as trustees and their trusteeship responsibility is to the entire society, not just the shareholders. Company's profits are only one reason for its existence; serving the community in which it operates is an equally important other reason.

(Some Historical Perspective)

The history of social and environmental concerns about business is as old as trade and business itself. Commercial logging operations for example, together with laws to

protect forests, can both be traced back almost 5,000 years. In Ancient Mesopotamia around 1700 BC, King Hammurabi introduced a code in which builders, innkeepers or farmers were put to death if their negligence caused the deaths of others, or major inconvenience to local citizens. In Ancient Rome senators grumbled about the failure of businesses to contribute sufficient taxes to fund their military campaigns, while in 1622 disgruntled shareholders in the Dutch East India Company started issuing pamphlets complaining about management secrecy and "self enrichment". With industrialization, the impacts of business on society and the environment assumed an entirely new dimension. The "corporate paternalists" of the late nineteenth and early twentieth century used some of their wealth to support philanthropic ventures. By the 1920s discussions about the social responsibilities of business had evolved into what we can recognize as the beginnings of the "modern" CSR movement. In 1929, the Dean of Harvard Business School, Wallace B. Donham, commented in an address delivered at North Western University: 'Business started long centuries before the dawn of history, but business as we now know it is new in its broadening scope, new in its social significance. Business has not learned how to handle these changes, nor does it recognize the magnitude of its responsibilities for the future of civilization.'

Almost seventy five years later, these words ring just as true. Although today we face some novel concerns about the role of business in society, from internet "spam" to genetically modified foods, many of the issues under discussion are not very different to those being raised in the 1920s. There is a danger that social and environmental concern about business is an issue which, like sex, every new

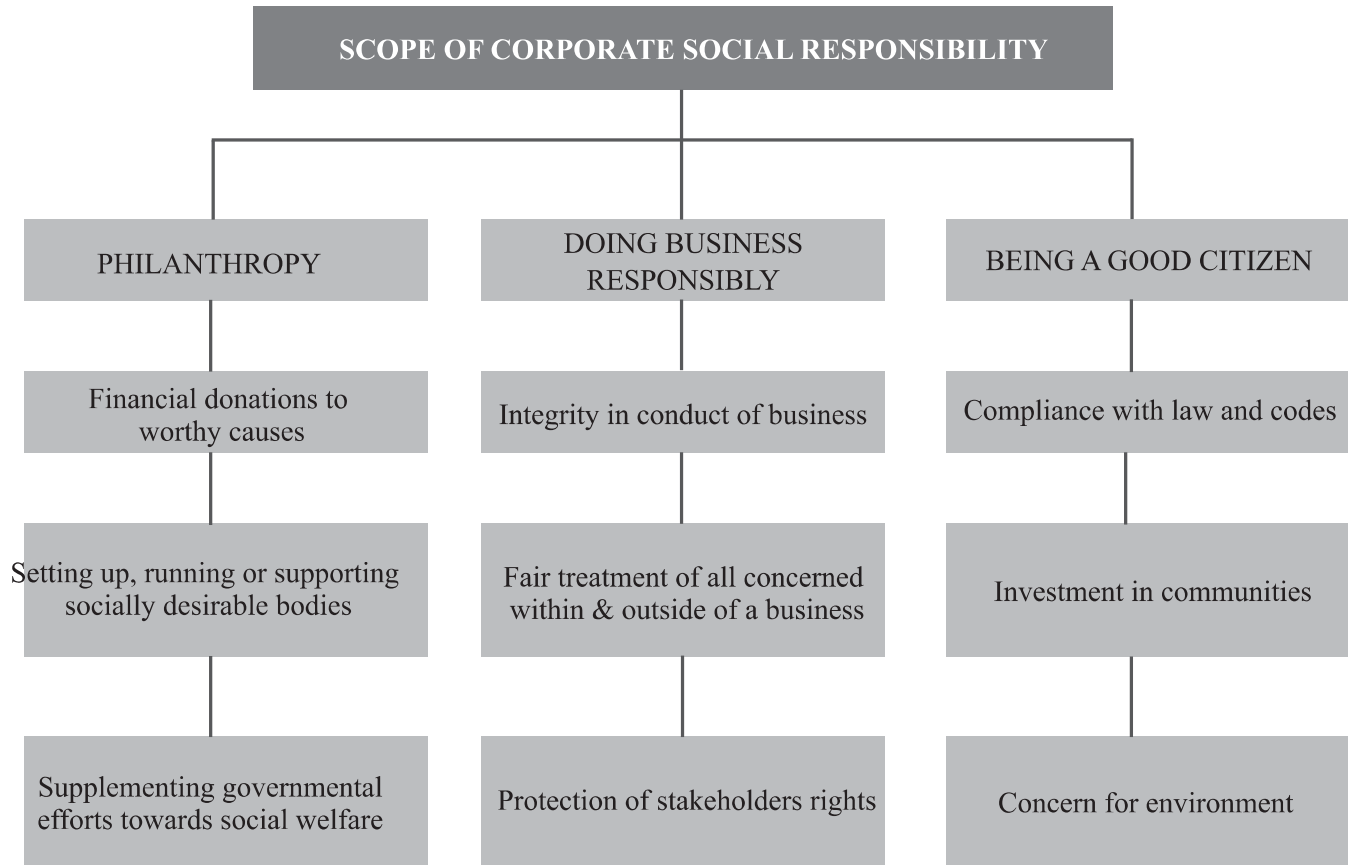
generation thinks that it was the first to discover. As a result every generation feels that they have the liberty to deal with their discovery in whatever manner they please. This

following activities in relation to philanthropy:

Financial Donations:

Giving financial donations to worthy causes, or deserving

channel financial donations through socially desirable organizations like Edhi Foundation, Shaukat Khanum Hospital, charitable trusts, etc. A company can setup such organizations, help in running them



can be dangerous.

The Scope of CSR

While it is difficult to draw boundaries for CSR, generally its scope can be divided into three broad segments, namely philanthropy, doing business

Philanthropy:

Commonly associated with giving alms to needy people, philanthropy has a much wider meaning in terms of corporate social responsibility. It includes making financial contributions towards worthy causes, setting up, running or supporting socially desirable organizations and assisting the governmental efforts aimed at social welfare. In fact, a company can undertake any of the

persons, is the commonest and perhaps the simplest form of philanthropy. Pakistanis are generally known to be very kind hearted people who generously contribute to charity. This also extends to companies. Whenever there is a national disaster, companies offer assistance to affectees in cash and in kind. When the country was hit by an earthquake in 2007 and later by floods in 2010, most large companies generously donated large sums of money and goods to the victims of these calamities.

Supporting Socially Desirable Organizations:

It is often helpful and efficient to

or support them from a distance through irregular donations. A number of companies (e.g. Enron) have set up social units like hospitals and educational institutions that benefit not only their own employees but also the entire community around them. Many others regularly support well known charities while others go a step further and actually takeover the responsibility to run (or meet running costs of) deserving social welfare bodies.

Supporting Governmental Efforts for social welfare:

Government runs a number of social welfare organizations. However, the demand for these services is so large that government alone cannot meet

it. Companies can extend a helping hand to the government in running or maintaining such social welfare units, including schools, dispensaries, etc.

Doing Business Responsibly

Doing business responsibly includes protecting the interest of all stakeholders, being honest in all dealings and according fair treatment to all concerned, within and outside an organization. This may appear to be simply an extension of observing business ethics, but includes a bit more than the application of ethical principles to company's internal procedures and processes. It covers a company's efforts towards improving the quality of life of the people associated with or existing around a company.

Integrity

This essentially means doing the business honestly. Examples of integrity in business include:

- Giving full value of money to customers,
- Maintaining the quality of products,
- Being honest in making claims about products in advertisements,
- Avoiding use of harmful material in manufacture of products,
- Giving all due details of the products to potential clients (e.g. about calories, quantity of sugar or fat, etc.) and passing benefit of research or cost reduction to clients.

Fairness

This includes equitable and equal treatment to all employees, suppliers and customers. Examples include:

- No favoritism, nepotism or discrimination in hiring, retaining and promoting employees,
- Paying due attention to career development and training of employees,

- Providing decent working environment to all employees, taking all necessary precautions to save employees from potential work related injuries or other risks by way of providing them protective clothing, etc.,
- When announcing incentive schemes for employees, or marketing schemes for clients, providing equal opportunity to all participants to benefit from the scheme instead of being selective or discriminative,
- Having respect for basic human rights.

Protection of all stakeholders' interest

Doing business responsibly means doing business for the benefit of all those parties whose interest are connected with the company, namely all the stakeholders. If the management of a company works only for profits, it serves the interest of shareholders but not of any other stakeholder. If the executive directors award huge bonuses to themselves and other managers, they do so at the expense of other stakeholders. If the board of directors indulges in risky projects with borrowed money, it acts against the interest of lenders. Raising prices of products when there is a shortage hurts the interest of customers. Delaying payments to trade creditors to curtail working capital costs is against the interest of suppliers. All these acts are outside the decorum of doing business responsibly. Paying due, if not equal, attention to the interest of all stakeholders at all times is part of being social responsible.

Being a Good Citizen

A company is what we call a corporate citizen. It has the same duties as an individual, if not more, towards the community or country it works in. Being a good citizen demands unconditional compliance

with the law of the land, making investment in the community and showing due concern for physical environment. These are grave responsibilities and neglecting them not only weakens the society but also impairs the sustainability of the company's own profitable existence.

Compliance with the Law

Right from the creation of a company to its every day conduct, almost all aspects of a company's operations are governed by laws. Laws relating to corporate existence, taxes and financial reporting, industrial operations, workers, marketing, quality control, etc affect virtually everything that a company does on a daily basis. All these laws must be respected, in word and spirit. Similarly, each company is subjected to certain professional codes depending on the nature of its business (e.g. Prudential Regulations for banking institutions) which should also be diligently followed. Compliance with the law also implies that a company must pay all due taxes and where applicable play its due role in collection of taxes on behalf of the government (e.g. withholding tax on certain payments). A good citizen always stays on the right side of the law, regardless of the size of benefits to be obtained by acting otherwise.

Investment in Community

This means doing things for the society that will improve the quality of life for everyone in the community surrounding the company. Examples of investment in community include:

- Building playgrounds, stadiums, parks or similar structures,
- Constructing roads or bridges where needed,
- Putting up water supply lines or digging wells for villages,
- Instituting awards or scholarships at colleges and

universities for meritorious and deserving students,

Concern for Environment

The world belongs to all humanity. Looking after it, preserving it, saving it from ruthless exploitation by seekers of temporary gains and sustaining its eco-balance is the responsibility of all of us, including the companies who live and prosper in it.

Man uses natural resources for improving the quality of his life. Companies use these resources to earn a profit and keep their investors happy. However, if we keep taking resources away from environment without making any arrangements for renewing them in some way, we will soon run out of them. Let us take a simple example: there is a forest

day, week or month as are cut down in that period. In that way, the forest can remain treed for a very long time and keep on serving the people of the village.

There are a number of ways to look after environment. Some of these are:

- **Maintaining eco-balance**

The word ecology comes from a Greek word which means house or living relations. Ecology refers to the existence of all the organisms that are all around us, and their interaction with the environment. As a field of study it includes a study of plant and animal populations, their communities and ecosystems. Ecosystem describes the network of relations among organisms at different scales of organization. Every place, village, town, city or

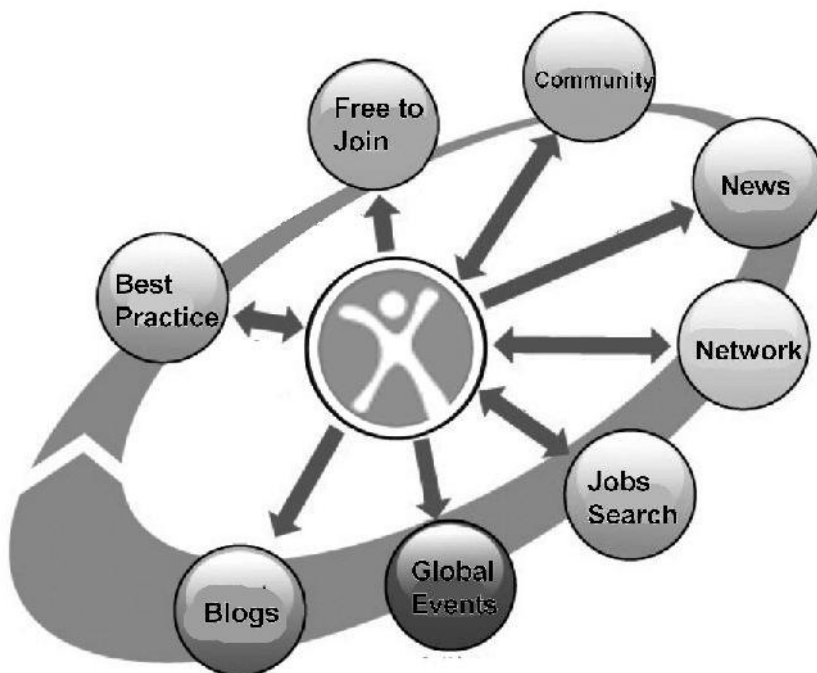
example, indiscriminate cutting of trees results in reduction in rainfall which in turn disturbs agriculture.

It is often difficult for individuals to make efforts at a level that would contribute in any measure to retaining or restoring eco-balance. It is therefore important that organizations like government, NGOs and companies take formal steps to ensuring that eco-balance is not disturbed, and if disturbed is restored without much loss. Examples of things to be avoided are deforestation, soil degradation, causing unhealthy atmospheric changes, disturbing the natural habitat of animals, etc. And where such activities have already taken place due to negligence of a community, efforts should be made to repair the damage through planting more trees, helping soil to recover and cleaning the atmosphere.

- **Avoiding pollution**

Polluting the environment through inconsiderate and careless disposal of industrial waste, discharge of harmful material into rivers or harmful gases into the air are examples of how companies disturb the eco-balance. We have seen how tanneries around Lahore have virtually killed the rivers through dumping their chemical waste into them. In the process they have also rendered thousands of acres of land unsuitable for agriculture. Some irresponsible cement factories emit dangerous smoke into the air without treating it. All this can be easily avoided through socially responsible corporate behavior. Some of the steps suggested in this regard are:

1. Waste treatment, or waste management, is now an established science and can



next to a village. People in that village keep cutting trees for use as fuel or building furniture, without taking the trouble to plant more trees. A time will soon come when there will be no trees left in the forest. What will the village folk do then? A basic common sense suggests that at least as many trees should be planted every

country has its own set of ecology which subsists as long as a natural balance is maintained between its different elements. Indiscriminate use of natural resources by humans, without replenishing them, can disturb the eco-balance. Damage to one aspect of ecology often leads to other serious consequences. For

be used to ensure that no harmful effluent is sent out to environment.

2. Similarly, gases that come out of a production plant can be purified to a level that it becomes safe to emit them into the atmosphere.
3. Company should get its production process audit done by Environment Protection Agency (EPA), or a similar body on a regular basis to ensure that they are safe for the environment.
4. Newer better technologies should be explored after carrying out proper cost benefit analysis, taking into consideration the benefits to the company's bottom line, its reputation, its community and its life cycle.
5. Spreading awareness among employees and clients as well as community at large about the importance of keeping the environment pollution free.

- **Careful use of natural resources**

Using up natural resources without making efforts to replace them can easily lead the world to extreme poverty. For example, Pakistan has already used up most of its natural gas deposits, without making any plans for its careful use. Now, the government is faced with acute shortage of energy, so it is trying to curtail the use of natural gas for motor vehicles. Similarly, the world as a whole has been very irresponsible in use of petroleum products, reaching the point where crude oil deposits are fast approaching their end. Now, the vehicle companies have started

making electricity driven vehicles, electricity is now being generated using renewable resources like wind rather than oil, and people are being asked to reduce use of vehicles that consume heavy doses of petrol or diesel. Companies can play a very effective role in preventing the depletion of natural resources through judicious use of existing resources and planning for replacement where it is possible, e.g. Pakistan Tobacco Company plants a large number of trees each year to restore the eco-balance.

Laws relating to Environmental Protection

Pakistan, like most other countries of the world, has a formal Act of Parliament dealing with environmental protection and a formal agency, Environment Protection Authority (EPA), has been established under the Act. The Act is fairly comprehensive for the situation as it subsists in Pakistan but a lot more needs to be done. However, the key to its success lies in the behavior of the companies. The companies must learn to self-regulate their processes and practices – i.e. to make a deliberate policy decision not to harm the environment.

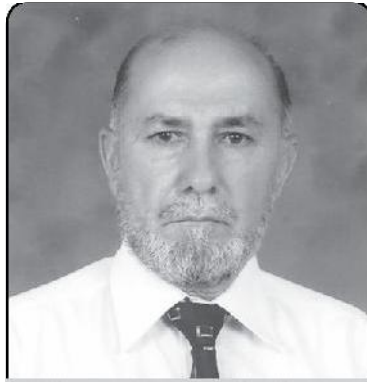
Shades of CSR

A number of companies in the world make a lot of noise about their socially responsible behavior, their huge donations to charity, their support for socially desirable projects, their involvement in community development, etc. They place huge advertisements in the paper, send out elaborate reports to stakeholders on their CSR efforts, get coverage on television and use all this publicity to further their business interests. Sadly, this is the prime reason for whatever little they

do for the society, i.e. to get publicity and promote the company image. A corporation in USA launched an academic assistance program for the under-privileged segment of the society. In four years they spent a total of \$1.9 million on granting scholarships and bursaries to needy students, and a whopping \$4.3 million on publicizing the project. Incidents like these bring us to the issue of difference between the official posture of companies on CSR and the reality. There is no dearth of companies that pay a lot of lip service to CSR but do not actually spend any significant amount on it. In fact a recent report (2002) published by the Britain's Institute for Public Policy Research has concluded that most CSR effort by companies is still mere lip service. The report said that in only 40% of the surveyed companies were social and environmental issues discussed at board level meetings, only a third of the companies had a board member with responsibility for environmental issues, and just over 20% had a board member formally responsible for social issues.

The situation is relatively worse in developing countries like Pakistan where the directors of most companies seem to have scant respect for and understanding of their companies' social responsibilities.

In a later article, I will try to outline the formal process of establishing a meaningful CSR program in a company.



Majid Khan Jadoon

A.C.I.I.(U.K) MD/CEO
M/S.PAKISTAN INSPECTION CO.
(PVT.) LTD.

Let me coin a phrase, i.e. "Protect your Guard to Protect you".

Later-on, in this write-up, I shall elaborate on the said phrase, but in the beginning, let us ponder-over the issue as to how the need of Private Guards has sprouted-up.

For the last some decades, Security environment for the Citizens has been going from bad to worst all over the Country because of the confluence of assorted factors and elements, which can be briefly named as the Phenomenon of Terrorism and un-sensitivity of some of the Law Enforcement Agencies' Personnel towards the importance of their duties.

Another element, accruing to the environment of deteriorating Law & Order situation, may be the deployment, in quite large numbers, of Law Enforcement Agencies' Personnel on VIP duties.

Further, due to un-sensitivity of Politicians towards their most Sacred



SECURITY GUARDS

Political duties, they influence the induction of in-competent personnel into Government jobs at each level in every Public Service Department, because of Political Considerations or Nepotism, which has played havoc with Institutions, especially Law Enforcement Agencies, when certain elements, with the ambitions of making money through the authority of their Offices/Postings. Besides, the lack of training in espionage in the context of retrieving secret informations about rogue elements/criminals, as well as the activities of certain Politically-estranged people or people pursuing their selfish agendas against their opponents at the Cost of the hapless Citizenry etc. etc., has played havoc with the Law and Order situation in the Country.

In my opinion, it is most import to mention here that the Services of certain Law Enforcement Agencies' Personnel are acquired on Contract-basis which are most INJURIOUS to the Public interests, vis-à-vis Law and Order.

In our country, a Culture of inducting close relatives or persons under their influence, in every Government Service, by the Elites/Politicians, has taken roots and I would not rule-out the possibility of there being bright-minds therein as well, but the practice would also deprive competent and intelligent candidates from the lower strata of the society, who might prove most efficient to run their concerned Departments in the best national interests.

Thus, when incompetent,

least educated/trained people or contractually-hired people, with ambitions to serve Specific-interests Groups, are placed at authoritative posts, implementation of Law and Order would remain a distant dream.

In my opinion, highly educated candidates, with best personal Character and respectable family back-grounds, from any group of the social ladder, ought to be inducted in the Law Enforcement Agencies and they be subjected to intensive training procedure, inculcating in them the habit of intellectually pondering-over problems and then to wisely act with well-thought-out strategies to solve problems of Law and Order.

In this context, orchestrated Espionage Net-works will do wonders, wherefor well-paid workers from the Lower and Lower-middle Classes, especially ladies, can be recruited and their reports critically analyzed and then acted upon.

To maintain the high moral order of the personnel of Law Enforcement Agencies, they must be handsomely paid with other Privileges and Personal Accident, as well as Lucrative Pension Insurance Schemes, including Terrorism Risks, and prompt payments of Claims ensured, so that the jobs can be made attractive for the deserving candidates.

Constitutional Protection must be provided to Postings and Promotions in the Law Enforcement Agencies, so that Morals of the Officers can be upheld and influences from any quarters must be declared Criminal Offence with the harshest punishments, including Ban from Government-jobs and Bars from politics for life as well.



Now coming back to the subject of Security Guards, I do admit that the phenomenon has created a Business Opportunity for some and jobs opportunities for others, but at the same time, some Security Agencies have been un-mindful in the recruitment of un-suitable/un-deserving people for the job, as well.

I would suggest that Retired Army and Law Enforcement Agencies' Personnel must be inducted in the Service, physically fit to do the job, which would provide alternate source of livelihood to them as well.

Besides, being already trained in the use of weapons and also psychologically fit to undertake risks, they would absolve their employers from extra expenditure of departing training to them and would also block the induction of criminals in the garb of Security Guards.

It has been observed that, at times, the very same Security Guards have turned robbers and looted the cash/valuables they were deployed on for protection. In my opinion, this would happen because of mainly two factors, i.e. the criminal character of some of the guards and very nominal remunerations being paid for the very highly risky and prolonged-hour jobs, in these times of high cost of living.

For example, a Security Guard, deployed for 12-hours duty, extending to 16-hours or so when their home-leaving and arrival times are included, at an average monthly remuneration of Rs.11,000/= only, with an average of 4 children, a wife, possibly depending parents and brothers & sisters, House-rent, Electric & Gas Bills, Education Expenses, Meals and other overheads etc. etc., would be under tremendous pressure of meeting ends which would incline him to resort to un-fair means.

It is therefore of utmost importance that the Security Guards must be protected from financial pressure, as well as physical harm, so that they can be motivated to protect their employers, as well as their employers' interests.

Financial-protection of the guards has been briefly discussed afore and in the context of physical protection, I would suggest that:-

- a) Security Guards ought to be adequately paid in accordance with realistically assessed costs of living.
- b) They ought to be provided personal accident insurance coverages.
- c) They be provided pick and drop facilities from their residences, so that any would-be grudge-keeper, whom

they would have deterred during the course of their guarding-duties, would not way-lay and harm them.

Besides, in this way, their conveyance expenditure would also be saved which would help them in the well-management of their monthly remunerations and running of their households.

d) They be provided with a weapon to keep it twenty-four hours a day for their personal protection.

e) Adequately secure enclosures be erected for them at their places of duty, as well as within the valuables/cash-carrying vehicles, wherefrom they can observe movements of all incoming/out-going people, or of the people intercepting the valuables/cash-carrying vehicles, but nobody can see them, so that in case of any robbery/burglary/dacoity, they can use their weapons with the confidence that they themselves are safe from attack.

f) At times, they also lay down their own lives or sacrifice their limbs in the protection of their employers' lives and properties and as such, apart from personal accident insurance coverages, they be guaranteed certain handsome compensation to their dependents, in case of their accidental deaths or disabilities during calls of their duties.

The afore-mentioned are a few of my humble suggestions which can be substantially improved by pondering-over by my respected friends through their most valuable intellectualities.



HAMID MUKHTAR & CO. (PVT) LTD.

(Established 1964)

Associates of Charles Taylor adjusting

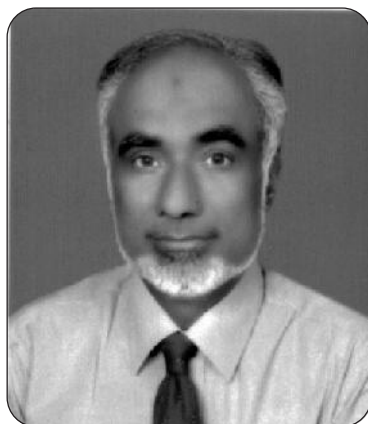
- Insurance Surveyors and Loss Adjusters.
- Consulting Engineers.
- Inspectors for Quality Control During manufacture.
- Valuation Consultants.
- Risk Evaluators and Pre-Insurance Inspectors.

Head Office:

14-Q, Gulberg-2,
Lahore, Pakistan.
Tel: (92-42) 35764301-2, 35760571
Fax: (92-42) 35711770.
Email: adjusters@hamidmukhtar.com
Web: www.hamidmukhtar.com

Branch Office:

407, 4th Floor, Beaumont Plaza,
Beaumont Road, Karachi
Tel: (92-21) 35644396-7
Fax: (92-21) 35644399
Email: mansoor@hamidmukhtar.com



Abid Masood Sandhu
Prof. in Management Sciences

Will the latest technology payoff? Can top executives and their team stretch their imagination? Many a time organization adapt new technology but it does not work. Top management reprimands middle and line management. In certain cases managers are fired. This may trigger the turns over and sometime career of top management is at stakes at crucial time. This phenomenon is still on. Few management scientists have unveiled that there is nothing wrong with the latest technology but it the approach of traditional management which lacks compatibility with modern technology and its proper use at the right time to accomplish corporate objectives. It has also been observed that tug of war take place between those who brought the technology and those who are the managers. It does not confine on the Latest and modern technology, sometime are new ideas, asking others to adapt innovative approach, redefining goals re-fabricated strategies may have the same fate. So whenever, wherever the top management decide to go for anything new, they have to go for the latest management skills, The management in 21st century. Any organization can afford to delay the latest technology but ignoring new management mans inviting troubles. I am convince that by using latest management techniques the organizations can achieve better results even with old technology

Management of 21st Century

**What are the new management?
We shall discuss it one by one:**

1. BENCHMARKING

Set the standards for top management. Starting from top management, Benchmarking should be the part of high leverage training. Set the target for the organization, redefined mission, vision, leading towards achieving corporate objective. . Do adapt new technology which suits your strategy and goals. The benchmarking must cover the three points:-

- (i) Organizational quantitate goals
- (ii) Organizational qualitative goals
- (iii) Rewarding employees.

There must be cohesion between the above three. Top management must be careful in Benchmarking. Never overlook the corporate financial and human resources

TRANSMITTING AND NOT TELLING

The top management should transmit their goals to the middle managers and line managers. Just conveying or telling or asking to do or demanding are not going to work. Transmitting means that convey the message with feeling. The emotional attachment with the set goals should be visible, especially when management is asking for qualitative objectives. How company would be benefitted by achieving these objective must be shared with the employees. Remember adding element of passion in the profession is an instrumental in management of 21st century.

PEOPLE SKILL

A common saying in management that it the people who make the difference and not the modern technology. But in new management that it is the trained and spirited people who make the difference whatever the resources a company is having. Yes, the technology facilitates. So win the heart of employees first and then leave the results on them. Trigger the spirit and get the best out of them.

The 21st century management suggests the following sequence to get best:-

- (1) Winning the heart
- (2) Transmitting new goals
- (3) Significance of any latest technology
- (4) Training
- (5) Motivation
- (6) Rewarding

While evaluating, rewarding or admiring any person, do not overlook his/her sincere efforts regardless of the results. In the new management sincere efforts have great values, and ultimately heading towards the attaining goals.

A N A P P E T I T E F O R IMPLEMENTATION

Induce urge in employees to go for implementation of the strategies or plans of action. The management should keep on giving orientation towards strategies. Getting feedback with suggestions is another pre-requisite for proper implementation of plan of action. Management by participation (MBP) should be used for getting best implementations. If management involves employees in

setting goals and formulating strategies positive results are on the card. There is no harm in involving fresh graduates and newly induced managers in policy making.

NEGATING YES MAN CULTURE

In management of 21st century yesmanship should be discouraged. The culture snub innovation, leads towards one man show. Develop employees to give their true and unbiased opinion. In new management arguments are encouraged. Saying YES for pleasing seniors are discouraged. New ideas should always welcome.

COMPETITIVE SPRITS LIKE WOW

Learn to surprise others. Surprise your consumers and competitors. Surprise the staff by rewarding. Train and develop your staff especially marketing department to surprise others how marketing department approach customers/consumers. WOW element shall play a pavital role in achieving corporate goals.

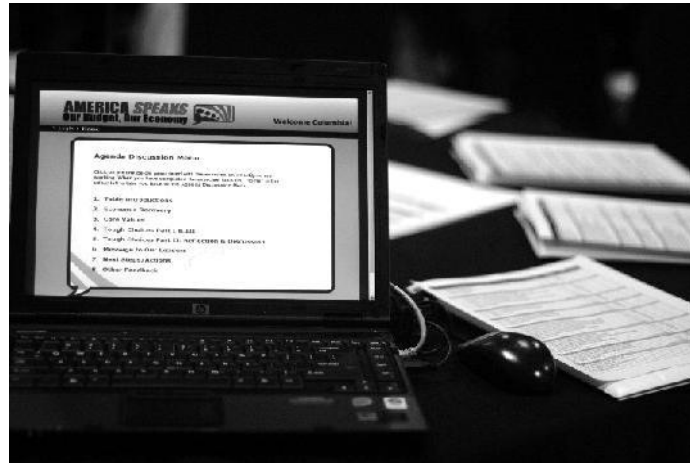
OBSECCE WITH EXTERNAL PERSPECTIVE

Never forget the old saying "*awaz e khalq ko naqara e khuda samjo*" where you have a keen eye on your competitors. There you must have an hawk eye that what others are saying about your product, policies, strategies, results, human resource. Do consider the opinion of other stakeholder (direct or indirect) sometime financial institutions like banks form their opinion about you it is advised that you must know about that.

Another that are you the benchmark for others?. It is a firm believe that if you want to be successful you need friends but if you want to be very successful you need enemies.(Sidney Sheldon) That never means that need create or add your enemies, it means you have to transform your enmity into friendship. It is possible that a consumer or group of consumer hate your products. This information gives

you a chance to formulate a strategy; you add some value into your products. And those consumers may be your loyal customer.

Never forget about your contribution towards society. In the latest



management approach the firm as a business entity should be the assets of the society and not as the liability of the society. Let's see the transport system in our society and encroachment are the stigmas in our society.

In the new management gaining reputation, winning hearts of indirect stakeholders and setting high ethical and moral standards should be integrated with business activities.

FOCUS ON GROWTH NOT PRESERVATION

Pakistan Re. is being devalued day by

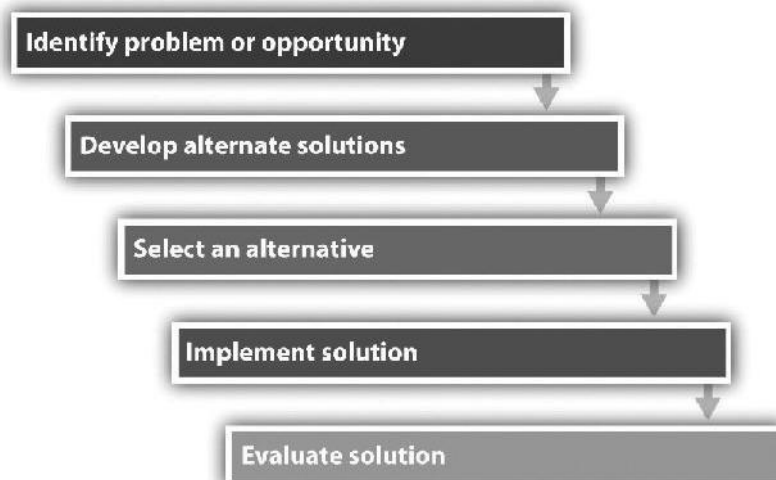
day. To meet this challenge, adapt the new management techniques by focusing on growth innovative on every step. Contingency plans are as important as basic strategies and plans of actions. Middle and line

management should be equipped by altering their plans as per requirement. And growth on every step should be among the basics. Growth in production, sales, profits shall always be the part of strategy. The management

always thinks that growth is vital for survival.

DO NOT REMOVE AMBIGUITY AT THE COST OF ASSETS.

If your staff is not clear about certain points of strategy, plan of action or about the goals. Have a discussion and clear the ambiguity. Never adapt a style of not doing certain or any things. Sometime ambiguity is removed by doing things. Do not be trapped by forceful argument that few employees do not know or not cleared about certain things.



Entrepreneurship

An Entrepreneur is a person who is willing and able to convert new idea or invention in to a successful innovation

Dr. Dilshad Zafar

Chairperson

Department of Commerce

University of Karachi

"Entrepreneurship" is the most crucial and significant issue in today's arena. Pakistan has made a lot progress in the last 60 years of its independence, but still lot more have to be done. As a nation it's our basic requirement to strengthen our economy, which needs Sustainable development in all sectors. This development has to be supported by new, innovative and successful business activities and ventures. For this we require highly skilled Entrepreneurs and leaders.

Entrepreneurship is the practice of starting new organizations, particularly new businesses generally in response to identified opportunities. It is viewed by economists to be a combination of innovation and risk taking. When such activity thrives, high growth rates are achieved as well as opportunities offered to all segments of society, including the poor. The later benefit from growth and employment as well as through opportunities for entrepreneurship.

Its very appreciative line said by Thomas J. Watson

"Every time we've moved ahead in IBM, it was because someone was willing to take a chance, put his head on the block, and try something new."

An entrepreneur is a person who not only organizes and manages a business but also undertakes and assumes a risk for the sake of profit. This behavior and deeds does molds some of the excellent qualities in the personality of entrepreneurs like,

Inner Drive to Succeed, Strong Belief in themselves, Search for New Ideas and Innovation Openness to Change, Competitive by Nature, Highly Motivated and Energetic and Accepting Constructive Criticism and Rejection.

True entrepreneurs are resourceful, passionate and driven to succeed. They're pioneers and are comfortable fighting on the frontline the great ones are ready to be laughed at and criticized in the beginning because they can see their path ahead and are too busy working towards their dream.

Being an entrepreneur is about more than just starting a business or two, it is about having attitude and the drive to succeed in business. All successful Entrepreneurs have a similar way of thinking and posses several key personal qualities that make them so successful in business. Successful entrepreneurs have an inner drive to succeed and grow their business, rather than having a Harvard Business degree or technical knowledge in a particular field.

Entrepreneurship is often a difficult undertaking, as a vast majority of new businesses fail. Entrepreneurial activities are substantially different depending on the type of organization that is being started. Entrepreneurship ranges in scale from solo projects (even involving the entrepreneur only part-time) to major undertakings creating many job opportunities. Many "high-profile" entrepreneurial

ventures seek venture capital or angel funding in order to raise capital to build the business. Many kinds of organizations now exist to support would be entrepreneurs, including specialized government agencies, business incubators, science parks, and some NGOs.

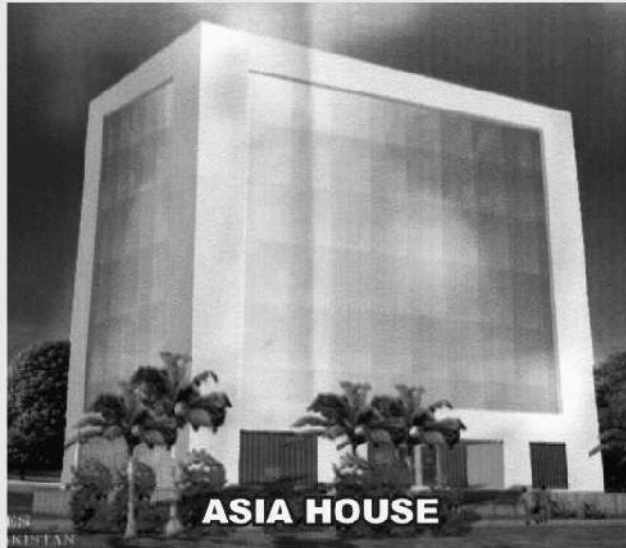
History of Entrepreneurship

The understanding of entrepreneurship owes much to the work of economist Joseph Schumpeter and the Austrian School of economics. In Schumpeter (1959), an entrepreneur is a person who is willing and able to convert a new idea or invention into a successful innovation.

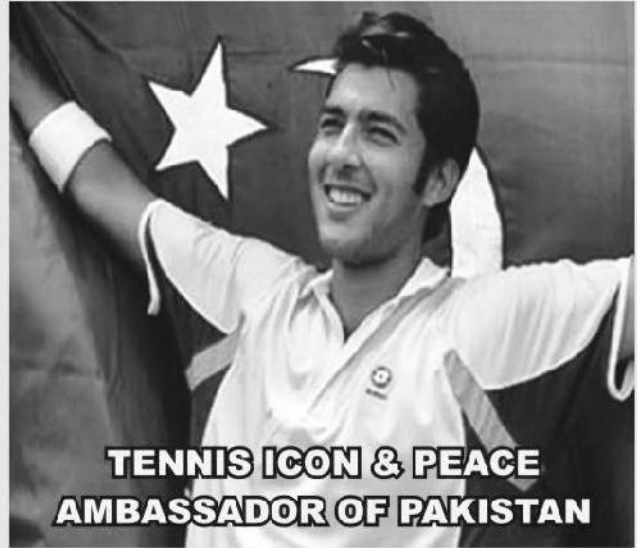
Entrepreneurship received a boost in the formalized creation of so-called incubators and science parks (e.g.) those listed at NBIA.Org), where businesses can start at a small scale, share services and space while they grow, and eventually move into space of their own when they have achieved a large enough scale to be viable stand-alone businesses. It is being encouraged in an effort to revitalize fading downtowns and inner cities in America, which may have excellent resources but suffer from a hick of spirited development.

Still another view of entrepreneurship is that the process of discovering, evaluating, and exploiting opportunities, which go on to reify themselves in the form of new business ventures. In this model an entrepreneur could be defined as "someone who acts with ambition

Pride of Asia Insurance



ASIA HOUSE



**TENNIS ICON & PEACE
AMBASSADOR OF PAKISTAN**



asiaINSURANCE

company Ltd.

- ♦ a
- ♦ solid
- ♦ Insurer
- ♦ ally

OUR PRODUCTS

Asia Insurance Company Limited is providing number of services in the insurance industry some of which are:

Comprehensive Motor Insurance:

Group Health Insurance:

Property Insurance:

Cargo Insurance:

Engineering Insurance:

Personal Accident Insurance:

Travel Insurance:

456-K, Model Town, Lahore. Ph: 042-35916801-03 Fax: 042-35865579
info@asiainsurance.com.pk www.asiainsurance.com.pk

A Team Of Professional & Motivational People

beyond that supportable by the resources currently under his control, in relentless pursuit of opportunity" (a definition common to entrepreneurship professors.

America is in the midst of an entrepreneurial revolution. Every 45 seconds a new business is born. Entrepreneurship is widely regarded as an integral player in the business culture particularly as an engine for job creation and economic growth.

You will also find out what happens when entrepreneurs become their own worst enemies. Most entrepreneurs don't achieve the level of success, financial or otherwise, that they dream or scheme about, and not surprisingly, these entrepreneurs have some personality traits in common. For example, consider some very successful, and very different, entrepreneurs:

- Bill Gates of Microsoft displayed the big-picture thinking necessary for success even though he may have initially lacked the education or experience to accomplish his goals.
- Conrad Hilton knew little of the lodging and service industry when he decided to build his first hotel. He had unwavering determination, self-confidence, and a strong belief in himself.
- Because of the uncertain economy, lack of corporate security, economic layoffs, and downsizing, the motivation for people to go into their own businesses is greater than ever. Even with the current employment climate, people have greater motivation and sometimes greater flexibility to move among jobs. The abundance of possible business ventures makes the dream of owning a business attainable [or more people.

Characteristics of Entrepreneurship

- The Secrets to Financial

Independence:

- The entrepreneur has an enthusiastic vision, the driving force of an enterprise.
- The entrepreneur's vision is usually supported by an interlocked collection of specific ideas not available to the marketplace.
- The overall blueprint to realize the vision is clear, however details may be incomplete, flexible, and evolving.
- The entrepreneur promotes the vision with enthusiastic passion.
- With persistence and determination, the entrepreneur develops strategies to change the vision into reality.
- The entrepreneur takes the initial responsibility to cause a vision. to become a success.
- Entrepreneurs take prudent risks. They assess costs, market/customer needs and persuade others to join and help.
- An entrepreneur is usually a positive thinker and a decision maker.

Conclusion

All in all, entrepreneurship is the process of identifying, developing, and bringing a vision to life. It's truly said that:

"From his neck down a man is worth a couple of dollars a day, from his neck up he is worth anything that his brain can produce."

Entrepreneurship forces creative destruction across markets and industries, simultaneously creating new products and business models. In this way, creative destruction is largely responsible for the dynamism of industries and long run economic

growth. Place and think yourselves as an entrepreneur, this will help you to think strategically and also to take a best decision for your future, Equip yourself with best knowledge and ideas not only keeping in mind to build your future, but the future of Pakistan. Some opportunities require a lot of personality, and some require very little. Each reader has a different personality, As an example, if you read a book on leadership by former General Electric chairman Jack Welch and you don't have his strong personality, the stories that he shares are good stories, but they may not be ones that will help you learn how to be a great leader.

In the last I will only say: "the man who wins is the man who thinks he can."

References

- The Economist Magazine, March 11, 2006, pp 67.
- The Entrepreneur, Next Door by Bill Wagner.





Nasir Siddique

DIP CII, MBA (Insurance & Risk Management)

Assistant Manager (Adamjee insurance company Limited)

Reinsurance and its Types

Reinsurance: A Definition

Insurance for Insurance Companies
An insurance company, called the primary or ceding company, shares portions of its liability with another insurance company, known as a reinsurer

- Reinsurance is a transaction between insurance companies only
- The underlying policyholder has no interest or probity in the reinsurance contract
- The subject matter of a reinsurance contract is the risk the Reinsured undertook in its original policies.
- The reinsurer “reimburses” the insurer for its portion of paid claims
- The heart of reinsurance is utmost good faith (uberrimae fides)

How Reinsurance Works

It spreads the risk of loss incurred by the reinsured under its policies and redistributes the premiums received by the reinsured, according to the reinsurer's own business needs:

- Shifts risks from one insurer to another
- Allows “sharing” of risks to reduce burden on a carrier Frees up capacity for a carrier
- Allows coverage of large risks or

books of business

- Reinsurance is often a “subscription” market

Types of Reinsurance

The Two Main Types of Reinsurance

“ F A C U L T A T I V E ” REINSURANCE

Reinsurance transacted on an individual risk basis. The ceding company has the option to offer an Individual risk to the reinsurer and the reinsurer retains the right to accept or reject the risk.

“TREATY” REINSURANCE

A transaction encompassing a block of the ceding company's book of business, the reinsurer must accept all business included within the terms of the reinsurance contract.

Characteristics of the Reinsurance Contract Types

FACULTATIVE:

Individual risk review;

Right to accept or reject each risk on its own merit;

A profit is expected by the reinsurer in the short and long term and depends primarily on the reinsurer's risk selection process;

- Adapts to short-term ceding philosophy of the insurer;
- A contract or certificate is written to confirm each transaction;

- Can reinsure a risk that is otherwise excluded from a treaty;
- Can protect a treaty from adverse underwriting results.

TREATY:

No individual risk scrutiny by the reinsurer;

Obligatory acceptance by the reinsurer of covered business;

A long-term relationship in which the reinsurer's profitability is expected but measured and adjusted over an extended period of time;

Less costly than “per risk “reinsurance;

One contract encompasses all subject risks.

Forms of Reinsurance

Pro Rata Reinsurance (Proportional) Sharing concept – Ceding Company and Reinsurer share premiums and losses in a determined percentage.

Excess of Loss Reinsurance (Non-Proportional)

For a part of the premium, Reinsurers cover losses above a specified retention by the Ceding company, up to a predetermined limit.

Pro Rata (“Proportional”)

- Quota share
- Surplus share
- (“Non-Proportional”)
- Excess of loss
- Aggregate Stop Loss.



Rana Naveed ur Rehman
MBA (HRM), Cert CII (UK)
Manager – Health (East West Insurance)

Managing Health Insurance

An Employer's Perspective



Providing Health Insurance for employees is by far the single-most expensive benefit offered by employers and constitutes one of the greatest challenges many businesses face today. Yet, Health Insurance is extremely important to most employees and their families and is a powerful tool for recruiting and retaining the best workers. Although, employers are not required to offer Health Insurance to their employees. But if they do, and have two to 50 employees, in most countries, the state regulates your insurer and the policies available to you as an employer. These regulations allow employers to purchase health insurance regardless of the health of their employees. Employer transfers his employees' medical risks to the insurer and purchase a peace of mind in shape of group health insurance policy.

If an employer plans to give Health Insurance facility to his employees, then the question arises that up to what extent he can offer benefits and facilities keeping in mind the acceptable cost of these benefits and medical budget of the company. To find out answer to this question, the employer contacts different insurers with his benefit requirement by the process of procurement or bidding. In this process, an employer gets

quotations for group health insurance from different insurers and makes a comparison statement / criteria on the basis of benefits, terms & conditions and premiums. After a thorough evaluation, an employer selects the best quotation with maximum benefits and lowest premium and gets the group health insurance policy from the successful bidder (insurer).

Once the group health insurance policy is issued, the next step is to run it smoothly throughout the year with no dispute regarding any coverage and claims. It is the prime responsibility of person who is managing group health insurance at employer's end to ensure the delivery of maximum benefits and facilitation to his employees of this.

Following are the main responsibilities of the employer to

best manage the group health insurance policy:

- To get maximum benefits and facilities for his employees and their eligible family members on a reasonable and competitive premium from credible insurer.
- Provision of complete and correct information of employees / persons to be insured in group health insurance policy to the insurer.
- Disclosure of any pre-existing conditions, ailments and diseases of any employee, so that there will not be any ambiguity or dispute arising in the future on any claim.
- Timely payment of premium to the insurer.

- Complete understanding of terms and conditions mentioned in the policy document before finalizing group health insurance policy.
 - Educate his employees how to protect themselves from seasonal diseases, conduct annual medical health checkups and how to utilize group health insurance policy.
 - Submission of claims of insured persons to the insurer by ensuring that the claims documentation is complete in all aspects.
 - Coordination with insurer to receive timely reimbursements of claims and also in case of credit facility in panel hospitals.
 - Conductions of orientations session for employees, with the help of insurer, how to avail the group health insurance facility.
 - To ensure timely addition and deletion of employees in the group health insurance policy during the policy period.
 - To fight against any unfair claim rejection by the insurer on behalf of an insured employee.
 - Do not insist for an undue
- favor from the insurer on behalf of an insured employee or for anything which will be against the terms and conditions of the group health insurance policy.
 - Coordination with insurer in case of any fraudulent claim of any employee detected by the insurer.
 - Analyzing the claim trends and feed backs of the employees for the purpose of enhancement of benefits and facilities in the future.
 - Making a provision of pool amount in the group health insurance policy to accommodate any insured person in case of an excess in the medical expenses on need basis.
 - Continuously monitor all services delivered by the insurer which will help at the time of renewal of the group health insurance policy.
 - Management of claims expenses of insured employees by protecting; unfair claims expenses by any employee, overbilling by any employee, availing credit facility in a panel hospital remains within his prescribed limit and stoppage of any fraudulent intention or claim

by any employee which will result in fluctuation in the premium at the time of renewal of group health insurance policy. If the claims expenses are well controlled by the employer that will result in reduction in renewal premium and for availing a low claim discount.

- Not to change the insurer frequently just on the basis of little premium margins, although, this will ultimately decrease the cost of your group health insurance policy but at the same time your employees will become ping pong among the insurers. If you are satisfied with the services of your insurer, you should not change the insurer on the basis of minor premium reduction.

In my opinion, any employer must fulfill above all responsibilities to run the group health insurance policy in sound manner by providing maximum benefits and facilitation to his employees so that this will become a blessing the employees and their families.





M. Zia Ul Shams

Sr. Manager Marketing

Jubilee General Insurance Co. Ltd.

Being an agrarian country, Pakistan is ranked 5th in Muslim World & 20th worldwide in farm output. Agriculture employs 44% of the work force in the country. Agriculture is very much vulnerable to the unpredictability of nature. With agricultural production representing the only livelihood for many resource constrained Pakistani farmers, the impact of natural disasters and other agricultural risks cannot be taken lightly. In case of natural calamities, the farmers not only have to bear the loss of their produce/crop but also have to face defaults for the bank credit. The need to safeguard the interests and investments of farmers is, therefore, of paramount importance. Disasters, which may cause heavy losses to farmers, cannot always be prevented, but losses can be mitigated through crop insurance. Crop insurance is a risk management mechanism designed to even out agricultural risks and blunt the consequences of natural disasters to make losses, especially to the marginalized farmers, more bearable.

However in developing countries like Pakistan Agricultural insurance is still in developing stage. The prominent factors involved in underdevelopment of crop

Crops Insurance in Pakistan

Current Scenario



insurance products are lack of knowledge among farmers, and more importantly a large segment of grower's constituted of small farmers. In spite of various initiatives taken in the past to introduce crop insurance, no fruitful result could be come out mainly due to little involvement of private sector insurance companies and non-availability of reliable data on calamities, cropping pattern, etc. As such, the risk of losses of natural calamities to farming community remained without insurance cover and also banks considered agri. credit a high risk and non-viable business which hampered the expansion of credit to the farming community. Currently in Pakistan crop insurance is mainly availed by the agriculture loan borrowers through banks. In year 2008 State Bank of Pakistan established a task force comprised of members from commercial banks and insurance companies. This task force designed

a crop loan insurance framework, which is being followed by the major banks and insurance companies throughout Pakistan.

Brief History of agriculture insurance in Pakistan

Agricultural insurance is relatively undeveloped in Pakistan. Livestock insurance was first introduced on a pilot basis in 1983 by the Eastern Federal Union Insurance Company. Crop insurance is new and was introduced in 2008 under a public private partnership for a national (in scope) crop loan insurance scheme.

Agricultural insurance market structure 2008

Livestock and poultry insurance has been written on a small-scale in the

past by various private insurance companies. Since Rabi season 2008/09 a group of ten insurance companies in conjunction with 20 commercial banks have been involved in the implementation of the national crop loan insurance scheme. The insurers include Jubilee General, Askari Insurance, EFU General, East West, National Insurance Company, UBL, Adamjee, United, Silver Star, Atlas and Alfalah.

Agricultural insurance products available

Livestock insurance is available on a limited basis and includes both livestock cattle, buffalo, small ruminants and poultry insurance. Since Rabi 2008/09 individual grower multiple peril crop insurance has been available for field cereal crops and sugar cane.

The policy adopts a unique two-trigger indemnity procedure:

- 1) Catastrophe losses as a result of an insured peril that exceeds 50 percent of the normal average regional (e.g. block) area yield must first be declared by a competent authority, and
- 2) This opens the policy for a loss adjustment at the individual farmer level

Delivery channels

For crop insurance, the most important delivery channel is through linkage to agricultural credit for farmers through the banks. Agricultural insurance is compulsory for farmers who have taken seasonal loans from the banks.

Agricultural reinsurance

The scheme carries a maximum agreed indemnity limit of 300 percent loss ratio. There is a stop loss reinsurance cover that is placed with international reinsurers. It is understood that on account of the very severe flooding in 2010 the stop loss reinsurance program has

incurred high losses.

Types of public support for agricultural insurance

The crop loan insurance scheme attracts premium subsidy support from government (SBP, 2010).

Premium subsidies

According to SBP (2010), in 2008/09 the government reimbursed the banks Rs 183 million (US\$2.2 million) for the cost of premium subsidies to subsistence farmers. This would be equivalent to a premium subsidy level of 58 percent.

Agricultural insurance penetration

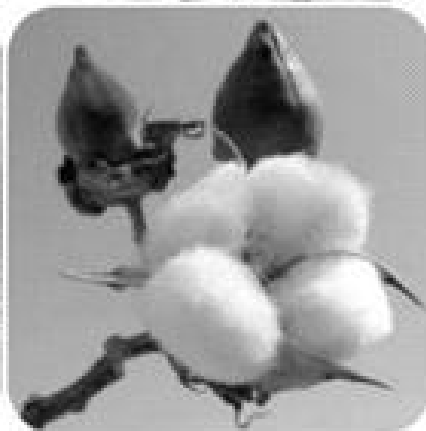
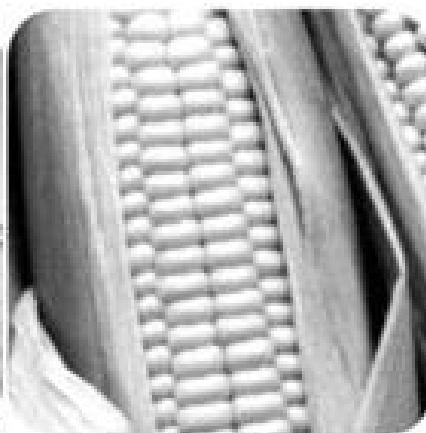
Insurance penetration rate In the first year of operation, the crop loan insurance scheme generated premium of US\$3.8 million or a 2.1 percent penetration rate for the insured crops, ranging from 1.0 percent penetration rate for maize to 4.0 percent for sugar cane.

Financial performance

The crop loan insurance scheme has only been operating for the past few years. According to SBP(2010), in 2008/09 the scheme written premium was US\$3.8 million against paid claims up to December 2009 of US\$0.28 million with an implied loss ratio of about 73 percent.

In 2010, Pakistan incurred devastating flooding that has destroyed much of the kharif 2010 crop. It is understood that the 2009/10 premium may be in the order of about US\$6 to 8 million, and that the value of crop losses resulting from these floods may be as high as between US\$10 to 20 million. However, these preliminary and informal estimates need to be confirmed.

It is also understood that there have been severe flood losses in the livestock and poultry sectors in 2010 and that at least part of these losses are insured.



Salient Features of Pakistan mandatory crop loan Insurance Scheme

PARTICIPATION	ALL commercial & private banks and Insurers registered with SECP
AMOUNT INSURED	Amount of loan subject to per acre borrowing limit prescribed by SBP with maximum Rs 2,000,000 per farmer per crop per season
CROPS COVERED	All field crops
PERIOD OF INSURANCE	From time of sowing or transplanting till harvesting
INSURED RISKS	Excessive Rain, Hail, Frost, Flood, Drought and Crop related diseases like viral and bacterial attacks or damage by locusts
DECLARATION	Name of farmer and crop must be entered in the Usher/Land Revenue/Jammabandi at the Village/Deh/Chak level
PREMIUM	Maximum 2% of amount insured per crop per season plus applicable levies. Bank will be responsible for collection and payment of premium to the Insurer
INDEMNITY	Claims for damage directly caused by the Insured Risks to be based on declaration of Calamity by the competent authority (Provincial or Federal) in the area where the insured risk is located and such declaration is notified in the Gazette AND the final yield of the subject risk is less than 50% of the reference of that area. •Indemnity is also subject to the name of farmer/borrower and the insured crop has been earlier declared.
REFERENCE YIELD	•Three year average yield of the particular area. The three years will be from the five preceding years discounting the best and worst years.
MAIN EXCLUSIONS	•Non-utilization or wrong utilization of loan. •War, Civil war, Strikes, Riots, Terrorism etc •Earthquake or Volcanic eruption •Loss before risk declaration or after harvesting •Price fluctuations and loss of market
SPECIAL CONDITIONS	•Declaration of Calamity •The maximum limit of liability of the Scheme in any one year to be 300% of the Premiums for that year •Insurers reserve rights for review of terms annually
CLAIM PAYMENT	Claims shall be payable to the banks by the insurer for credit to the insured borrower loan account. The maximum amount payable is the outstanding loan or the assessed amount, whichever is the lesser amount

Source: SBP, 2008 task force report on crop loan Insurance framework. Agricultural credits departments, State Bank of Pakistan.

Crops Insurance is at a very primitive stage in Pakistan, There are several types of assistance by which government of Pakistan can facilitate private insurance sector for promotion of crop insurance. Among these are the following

- Provision of information, on weather patterns, incidence of perils, evidence of past losses following adverse weather events, numbers, areas and locations of farms/crops, historical crop yields (data and trends). Most countries do this on a regular basis. Some charge for information. The quality of the data varies greatly
- Meeting the costs of the research needed before any crop insurance program can be started. Often this responsibility is shared by development organizations such as FAO - e.g. in the case of Pakistan in 1995 and Syria in 2000, and the World Bank - e.g. in the case of Morocco in the late 1990s.
- Subsidization of premiums payable by farmers. This is very common, with Canada, Cyprus, India, Japan, the Philippines and the United States being examples.
- Providing a layer of reinsurance. Although less common than premium subsidy, it is practiced, for example, in the United States, Cyprus and India.

Along with these interventions a public subsidy program should be developed to create incentives for agricultural insurers to expand their services to small farmers.

Reference: SBP, 2008 task force report on crop loan Insurance framework. Agricultural credits departments, State Bank of Pakistan.



Beeta

Romance with the Air

BEETA INDUSTRIES

G.T.Road, Gujranwal-Pakistan

Tel: +92-431-276106-5511325

E-mail: beeta@brain.net.pk

www.beetafan.com



New Chairman PRCL

Mr. Rasul Bux Phulpoto

Mr. Rasul Bux Phulpoto, Chairman, Pakistan Reinsurance Company Limited is a Senior Civil servant, having four decades diversified experience. Prior to the present position, he was serving as Chairman, Pakistan Tobacco Board. He also worked as C.E.O/M.D PHA Foundation, Islamabad. He has served at various important positions in various Ministries/Department(s) of Federal as well as Provincial Government(s), which includes Housing & Works, Health Special Education, Social Welfare, Industries, Commerce, Railways, Defence. He headed five Departments in Sind Government as Secretary viz. Labour Division, Transport, Industries & Commerce, Public Health Engineering, Work & Service Department & Commissioner Sindh Employees Social Security Institution.

He attended mandatory course in “Public Sector Management” NIPA in April, 2003 and “86th National Management Course” at Pakistan Administrative College, Lahore in June 2007. Mr. Rasul Bux Phulpoto, Chairman, PRCL has also represented Pakistan Government on international Forums in Europe, Middle East, Far East & Central Asia. In addition, he also remained Chairman as well as member of the board on various autonomous bodies like Pakistan Tobacco Board, Sindh Workers Welfare Board, SITE – LTD>, SESSI, EOBI & Equity Participation Fund, Islamabad.

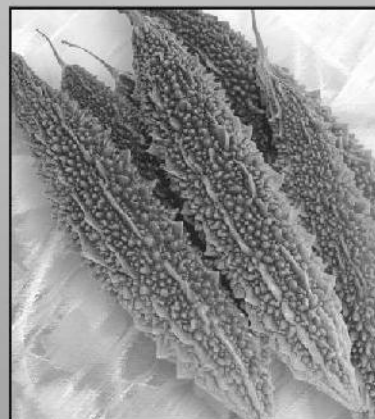
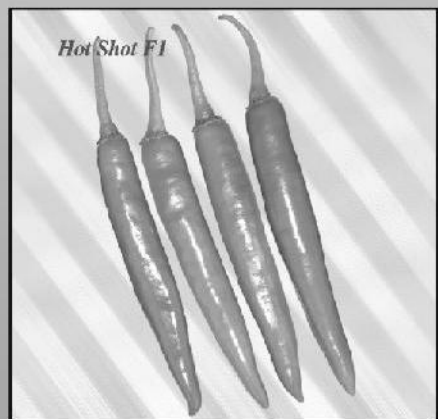
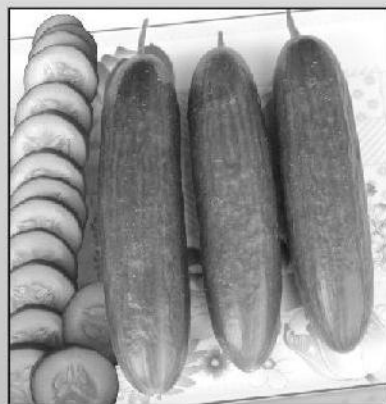
20th Meeting of the Reinsurance Committee of PRCL Board (28th Dec, 2012)



RACHNA AGRI BUSINESS



**Importer, Exporter and Wholesale supplier
of Vegetable seeds, Wheat seeds,
Paddy seeds and Field crops.**



RACHNA AGRI BUSINESS

2-Mini Stadium, Sheikhpura Road, Gujranwala, Pakistan.

Ph: +92-55-4218894, 4223408 Fax: +92-55-4218343

E-mail: info@rachnaseed.com

Web: www.rachnaseed.com

News Reports

News From Yamaha

A leading Japanese motorbike maker have expressed desire to establish its sales and manufacturing unit in Pakistan with the expected investment of US\$ 150 million. The production to start from 2015.

The company has submitted an application to the Securities and Exchange Commission Pakistan. The project will be spread over 50 acres situated at National Industrial Park Bin Qasim Karachi. (News Reports)



Big-5 Banks

The big-5 banks earnings posted a growth of 6 percent in 2012 to reach Rs. 88.3 billion. The profit growth in 2011 was 20%. The big-5 are National Bank, Habib Bank, United Bank, MCB Bank and Allied Bank. These banks represent 72% of the banks market capitalization over 60% of the total branch network and 55% of a banking deposits. (News Reports)



Askari Bank

Fauji Foundation, Fauji Fertilizer and Fauji Fertilizer Bin Qasim will acquire 21.3% shares of Askari Bank from public offer price of 24.32 per share. This public offer would follow the sale purchase agreement of the FF, FFC and FFBL with the Army Welfare Trust for purchase of 411 million shares for majority 50.57% stake in Askari Bank. (News Reports)



New ALPHA Branch

Alpha Insurance Co. opened a new branch in Karachi situated at Nadir House I.I. Chundrigar Road, The branch will headed by a well known insurance executive Mr. Iqbal Macha as Deputy General Manager.



CGAP

According to the consultative Group to Assist the poor (CGAP) Pakistan has become one of the fastest developing markets for branchless banking in the world.

UBL Omni

Easy Paisa, A joint venture of Tameer Microfinance and its parent company Telenor.

Mobilink

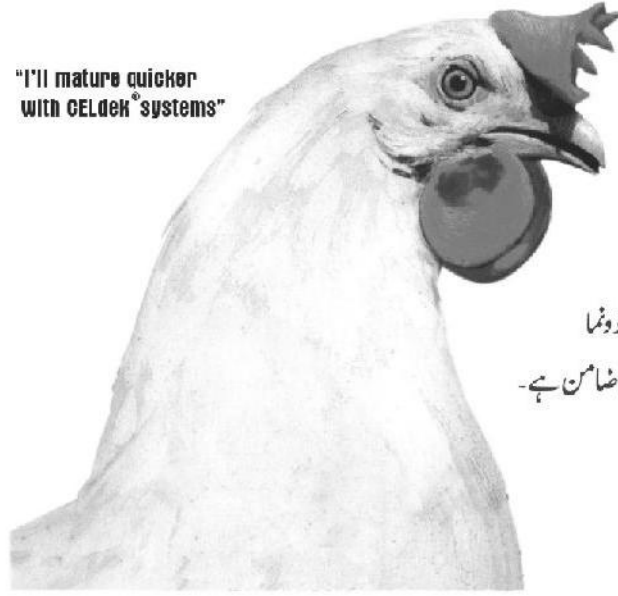
Bank Alfalah

Askari Bank

MCB



"I'll mature quicker
with CELdek® systems"



میری بہتر نشوونما
آپ کے زیادہ منافع کی ضامن ہے۔

When rearing poultry, maintaining a controlled climate is more important to optimal growth than even feed or stocking density. Conventional ventilation systems in poultry houses simply do not compensate adequately for temperature and humidity fluctuations caused by body heat and the sun's radiation. CELdek® system, on the other hand, maintain an optimal temperature and humidity, safely, efficiently throughout the production cycle.

A healthy, unstressed bird is a productive bird. CELdek® systems address the bird's total rearing environment to help eliminate stress and improve weight gain and feed conversion. And the more you do for the well-being of your poultry, the more they'll do for you.



Core fan



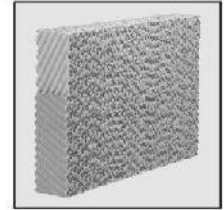
Euroemms fans (EM 3G)



Euroemms fans (EM 50r)



Air heaters



CELdek® evaporative cooling pads



ISO 9001-2000
Certified

Sole Distributors:

Munters
Climate. Controlled.

بہترین نشوونما کے لئے پیپکو پاکستان آپ کو جدید ترین ٹیکنالوجی کے حامل ایپورٹڈ ایکو جمنٹ اور معلومات مہیا کرنے کے لئے چوبیس گھنٹہ حاضر ہے۔



PEPCO (Pvt) Ltd.

www.pepcopakistan.com

Head
Office

Slakot By-Pass Road, Near Beacon House School,
Gujranwala, Pakistan.
Ph: 055-3204401-4, Fax: +92-55-3204401,
E-mail: pepco@gjr.paknet.com.pk

2010 PTD 1159

[Karachi High Court]

Before Gulzar Ahmed and Irfan saadat Khan, JJ

MESSERS EFU GENERAL

INSURANCE LTD.

Through joint Managing Director, Karachi

Versus

FEDERATION OF PAKISTAN

through

**Ministry of law and Parliamentary Affairs,
Government of Pakistan, Islamabad and 3 others**

Constitutional petitions No's .D-1141 to 1177 and 2008 of 2009 decided on 8th March, 2010.

- (a) **Income tax ordinance** Establishment in Pakistan ,but tax would be charge from such foreign
(XILX of 2001)----- belonging to countries having company ---prior to amendments
Agreement with Pakistan for introduced by Finance Act. **2008**,
Ss' .99, 101, 107 & 15(1AA) {as Avoidance of double Taxation --- non- Pakistani company was not required to
inserted by Finance Act (I of 2008)--- deduction of tax at source on such re- deduct tax at source on re insurance
Insurance Ordinance (XXXIX of insurance premiums remitted by remittances to such foreign
2000), S.2(xxvii) & (hi)--- Pakistani company to such foreign companies-----After amendment
constitution of Pakistan companies after insertion of S introduced by Finance Act ,2008 such
(1 9 7 3) , A r t . 1 9 9 - - - .152(1AA) in income tax Ordinance , re-insurance remittances would be
constitutionalpetition ---Re insurance 2001, by finance act 2008---Demand deemed as Pakistan source income
premiums paid by Pakistni company to of such tax by department ---validity -- obliging Pakistani company to deduct
foreign non-resident insurance -agreement of avoidance of double therefrom tax at source---Petitioner
companies not having Permanent taxation contained a condition that no was obliged to satisfy authority that

provisions of Finance Act, 2008 were applicable to such foreign companies for not having Permanent establishment in Pakistan, thus, such re insurance remittances could not be considered as their Pakistan source income---Question of deduction of tax would not arise, where payments made to non-resident were exempt from tax ---According to term **“permanent establishment** “as defined In the agreement of Avoidance of double taxation insurance enterprise of contracting State, would be deemed to have permanent establishment in other contracting State, if same collected premium in respect of other State except **“re insurance premium”**--- According to **S.107** of income tax ordinance ,**2001**, provisions of such Agreement had an overriding effect over tax law including Ss.102 & 152 thereof—such re insurance remittances could not be taxed as Pakistan source income nor could be legally deemed to be income accruing or arising in Pakistan --- Mere use of word **“shall”** in **S.152(5)** of income Tax ordinance , **2001** would not make such provision mandatory for not specifying penal consequences in event of not obtaining approval from Commissioner for remitting payment to non-resident without deduction of tax ---Taxpayer could not be penalized for not following directory provisions of **S.152(5)(5A)** of income Tax Ordinance , 2001--- Without establishing first that certain payment was chargeable to tax in Pakistan, action under S.161 of Income Tax Ordinance, 2001, against taxpayer could not be taken merely for its failure to obtain approval from commissioner in terms of **S.152(5)**

thereof----Such re-insurance remittances covered by Agreement of Avoidance of Double Taxation were entitled to exemption from tax, thus authority had wrongly refused to issue exemption certificate to petitioner---High Court quashed impugned demand in circumstances,. [pp.1164,1169,1170,1171,1172,1173]A,D,E,F,G,H,I,J,L,N,O & Q

I.T.A. No. 197 of 1997; Messrs American Express Bank Karachi v. Commissioner of Income Tax 2009 PTD 1791; Mountains Estate Mineral Enterprises v. Commissioner fo Income Tax 2008 PTD 1087; Niaz Muhammad Khan v. MianFazalRaqib PLD 1974 SC 134; MianAsif Islam v. Mian Muhammad Asif and others PLD 2001 SC 499; Hemalatha Gargya v. CIT (2003)259 ITR 1 and Union Bank Limited v. Federation of Pakistan 1998 PTD 2116 rel.

(b) Income Tax Ordinance (XLIX of 2001)---

---Ss. 99, 101, 107, 152(1AA) [as inserted by Finance Act (I of 2008) & S. 161--- Insurance Ordinance (XXXIX of 2000), S.2(xxvii)--- Constitution of Pakistan (1973), Art. 199--- Constitutional petition --- Re- -- insurance premiums paid by Pakistani company to foreign non-resident Insurance Companies not having Permanent Establishment in Pakistan but belonging to countries having agreements with Pakistan for Avoidance of Double Taxation --- Non - deduction of tax at source on such re-insurance premiums remitted by Pakistani company to such foreign company after insertion of S.152(1AA) in Income Tax

Ordinance, 2001 by Finance Act, 2008 --- Constitutional petition challenging validity of such demand for being mala fide and based on misinterpretations of statutory provisions --- Objection of department as to non-maintainability of constitutional petition for petitioner having an alternate legal remedy of filing appeal/revision against impugned demand --- Validity --- Question raised in constitutional petition would require and authoritative pronouncement --- Department had already refused to issue nil withholding certificate to petitioner and again its going to department for revision etc., would be an exercise in futility and mere illusory In nature --- High Court overruled such objection in circumstances. [pp. 1165, 1166] B & C

Usmania Glass Sheet Factory v. Sales Tax Officer PLD 1970 SC 2005; National Bank of Pakistan v. WafaqiMohtasib (Ombudsman), Karachi PLD 1992 Kar. 339; Pak Land Cement v. C.B.R. and others 2007 PTD 1524 and Pirani Engineering v. Federal Board of Revenue 2000 PLD 809 rel.

(c) Interpretation of Statutes - --

---Mandatory or directory provisions---Test --- Mere use of word “Shall” in statutory provision would not make the same mandatory. [p. 1172] K

Niaz Muhammad Khan v. MianFazalRaqib PLD 1974 SC 134; MianAsif Islam v. Mian Muhammad Asif and others PLD 2001 SC 499 and HemalathaGargya

v. CIT (2003) 259 ITR 1 rel.

(d) Interpretation of statutes --

---- Duty of court, while interpreting a provision, has to find out as to what intention of legislature was and what its object was --- Intentions is essence of statute ---- Intention of legislature as embodied in statute constitutes law thereof. [p. 1172] M

(e) Interpretation of statutes-----

---- Where a provision is open to two reasonably possible interpretation, then interpretation favouring taxpayer would be adopted. [p. 1173] P

SirajulHaqueMemon and ArshadSirajMemon for Petitioners.
JawaidFarooqui for Respondent.
AshiqRaza, D.A.G. for the State.

ORDER

IRFAN SAADAT KHAN, J.--- These petitions are filed by the Companies engaged in the business of insurance. The petitioners have challenged that certain amendments have been made in Finance Act, 2008 (F.A. 2008) concerning the business carried out by the petitioners which according to them are being misinterpreted by the respondent. The petitioners have submitted that the action of the respondents is not only mala fide but is also contrary to the intention of the legislature and therefore through these petitions have prayed that the action of the respondents may be declared ultra vires.

2. Messrs Sirajul Haque

Memon and Arshad Siraj Memon appeared on behalf of the petitioners and submitted that prior to the various amendments made through F.A 2008, the petitioners were sharing the risk with the foreign enterprises in the transaction of re-insurance and were not required to deduct any tax at source on such transactions with the non-resident enterprises as the Government of Pakistan (GOP) is having agreements for Avoidance Of Double Taxation (AFAODT) with some countries and these enterprises belong to those countries which do not have any Permanent Establishment (P.E.) in Pakistan. As per the learned counsel the department is misinterpreting the provisions of the Ordinance wherein various amendments have been made vide F.A. 2008 and are now demanding that tax should be deducted at source in respect of the reinsurance payments made by the petitioners to the foreign enterprises with whom the GOP already have AFAODT. As per the counsel there is no dispute with regard to deduction of tax at source is concerned in respect of the foreign enterprises with whom GOP do not have AFAODT as in such cases the petitioner were and are deducting the applicable tax at source. According to the learned counsel the provisions of treaty have an overriding effect over the tax laws and even after the amendments made in the said F.A. 2008, the petitioners are not legally obliged to deduct the tax at source in respect of the payments made by them to their foreign enterprises in respect of the re-insurance amounts. They further submitted that the provisions of section 101 of the Income Tax Ordinance, 2001 (The Ordinance) are subservient to section 107 of the Ordinance hence the petitioners are

not legally obliged to deduct any tax at source in respect of the payments made to foreign non-resident insurance companies, which are not having any P.E. in Pakistan. In support of their contention they have relied upon unreported decision given by the Hon'ble Supreme Court of Pakistan in Civil Petitions Nos. 542, 543 and 544 – K of 1999, dated 25-5-2000.

3. Mr. JavedFarooqui Advocate appeared on behalf of the respondents and submitted that prior to the amendments made in the F.A.2008 no deduction of tax at source was required in respect of payments of re-insurance premium made to the foreign countries with whom the GOP has AFAODT. However after the amendments made in F.A. 2008 it has now become incumbent upon the petitioners to deduct the tax at source in respect of the said re- insurance amounts paid to such non-resident companies. He further submitted that these amendments were aimed with the object that now the law-makers want to tax this amount which previously was not being taxed. He submitted that the re-insurance amounts would now be deemed as Pakistan source income and now the petitioners are legally obliged to deduct the tax at source on the amounts prior to remitting the same to the foreign enterprises. He further submitted that the present petitions are premature as the respondents have passed orders under the provisions of Section 161 of the Ordinance, and the respondents have the legal remedy available to them to file appeals, if aggrieved, with the Commissioner of Income Tax (Appeals). In his view these petitions are liable to be dismissed in limine as the petitioners have alternate remedy available to

them; hence the recourse adopted by the petitioners if filing the present petitions under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 is uncalled for. Mr. AshiqRaza, DAG has adopted the arguments of Mr. JavedFarooqui, Advocate.

4. Learned counsel for the petitioners by giving their rebuttal vehemently opposed the objections raised by the counsel for the Department and submitted that no efficacious remedy is available to them. The matter is regarding fiscal rights based upon statutory instrument which could only be determined in writ jurisdiction. In support thereof they relied upon a number of decisions which have been elaborately discussed in the written synopsis filed by them. They therefore prayed that these petitions may be allowed with cost by holding that the action of the respondent is not only mala fide but also ultra vires.

5. We have heard all the learned counsel at length and have also considered the verbal as well as written arguments advanced by them. Before advertng to the legal controversies raised by the learned counsel we first would like to reproduce hereinbelow the amendments made through F.A. 2008:

(a) "insertion of subsection (1AA) in section 152 stipulating that every person making payments of insurance premium or re-insurance premium to a non-resident person shall deduct tax from the gross amount paid at the rate (of 5%) specified in Division –II of Part – III of the First Schedule.

(b) Corresponding amendment was made to treat such amount of tax

deducted as a final tax on the income of the non-resident by insertion of subsection (1BB) in section 152.

© Further corresponding amendment was also made in Rule 5 of Fourth Schedule by inserting sub-rule (4) to the effect that no deduction shall be allowed for any expenditure on account of insurance premium paid to an overseas insurance or re-insurance company or a local agent of an overseas insurance company until tax at the rate of 5% is withheld on the gross amount of insurance or re-insurance premium."

6. Briefly, stated the petitioners are Public Limited Companies and are engaged in the business of Insurance. The income of the insurance business is computed under section 99 of the Ordinance while the procedure of computing the income is given in the Fourth Schedule to the said Ordinance. The petitioners are carrying on business of insurance which is controlled and regulated through Insurance Ordinance, 2000.

In this kind of business a contract of insurance is drawn for any property, life etc. and the Insurance Company assumes the risk thereto and for which purpose charges a stipulated sum of amount from the insured person commonly known as the premium. In order to share the risk for any heavy loss, which could be beyond the capacity of Insurance Company, transactions of re-insurance are undertaken wherein a foreign Insurance Company share such risk with the Pakistani Company and for which purpose charges re-insurance premium from the Pakistani Company, which the Pakistani Company eventually remits to them. The terms insurance and re-insurance have been defined in section 2 of the Insurance Ordinance 2000, which are

reproduced herein below:

"(xxvii) "insurance" means the business of entering into and carrying out policies or contracts, by whatever name called, whereby, in consideration of a premium received, a person promises to make payment to another person contingent upon the happening of an event, specified in the contract, on the happening of which the second-named person suffers loss, and includes reinsurance and retrocession:

(Hi) reinsurance means a contract of insurance under which the event, specified in the contract, contingent upon the happening of which payment is promised to be made to the policy-holder thereunder; is payment by the policy-holder of a claim or claim made against the policy under another contract or contracts of insurance issued by that policy-holder.

7. The GOP entered into AFAODT with a number of countries and in most of these agreements it has been agreed bilaterally not to charge the tax subject to the condition that such foreign country should no have a P.E. in other country. Prior to the amendments made in F.A. 2008 the petitioners were not required to deduct the tax on such re-insurance remittances to non-resident enterprises which have the AFAODT with Pakistan and which do not have a P.E. in Pakistan. However after the amendments made in the F.A. 2008 the respondents are now demanding from the petitioners not only to deduct the tax on such re-insurance payments but also threatening them that penal action as provided under the law will be taken if no tax is deducted at source by the petitioners.

8. Before examining the

contentions raised by the petitioner the action taken by the respondent is not only mala fide but also contrary to the intention of the legislature. We would like to deal with the issue that whether in the present circumstances the invoking of the constitutional jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan is warranted or not. The learned counsel for the petitioner in support thereof have invited our attention to a number of decisions given by the superior courts, wherein it has been held that “where the impugned order/action is without jurisdiction and mala fide or is contrary to law or misapplication of law or assumption of jurisdiction is based upon misreading of provisions of law then in such cases petitions are maintainable even though the machinery is provided for redressal”. In the case of *Usmania Glass Sheet Factory v. Sales Tax Officer* (PLD 1970 SC 2005) it was held that:

“The objection of the respondent that the appellant had alternative remedies by departmental means is also not of much substance. It has been held by this court that in a case where the dispute arises between the parties in respect of a fiscal right based upon a statutory instrument the same can be easily determined in writ jurisdiction.”

In another decision *National Bank of Pakistan v. Wafaqi Mohtasib* (Ombudsman), Karachi (PLD 1992 Karachi 339), it was held that:

“When assumption of jurisdiction is clearly based upon misreading of the provisions of law, it is, and has always been a valid ground for interference in writ jurisdiction”

In another decision reported as *Pak Land Cement v. C.B.R and others* (2007 PTD 1524), it was held that “Nevertheless, it is equally well-

settled that the alternate remedy must be equally efficacious and learned counsel for the petitioners seems to be correct in asserting that statutory remedies had become illusory on account of a clear expression of the opinion on the subject by the respondent No.2 to whom the appellate body was a subordinate”.

9. In the instant petitions also the learned counsel for the petitioner has challenged the very authority of the Respondent No. 4 in misinterpreting the provisions of the law which as per the learned counsel is not only mala fide but also contrary to law and is also a misapplication of the law. We, therefore, in the light of the decisions noted supra have come to the conclusion that the matter does require an authoritative pronouncement in view of the allegations made by the learned counsel. At this junction we also would like to refer a decision given by a D.B. of this court in *Pirani Engineering v. Federal Board of Revenue* (2000 PLD 809) wherein it was held that “a reviewing authority had already expressed his opinion in the form of an administrative order, therefore, filling of an appeal or revision/review before such authority was mere illusory in nature and was not efficacious remedy and it was held that the petition was maintainable.” In the instant petitions also it was explained by the learned counsel for the petitioners that in certain petitions the CIT has already refused to issue nil withholding certificate to the petitioners and again going to the department for revision etc. would be an exercise in futility and mere illusory in nature. We, therefore, overrule the objection raised by the learned counsel appearing for the respondent that

these constitution petitions are not maintainable.

10. In order to appreciate the issue involved in the present petitions, we first have to examine the relevant provisions of the Ordinance in detail. The new subsection 13A has been introduced in section 101 through which any amount paid on account of insurance or re-insurance would be deemed as Pakistan source income. As per this section any business income of non-resident is to be treated as Pakistan source income which is directly or indirectly attributed to P.E. of the non-resident person. Section 107 of the Ordinance deals with the Avoidance of Double tax and Prevention of Fiscal Evasion and state about the determination of Pakistan source income of the non-resident person. Section 152 of the Ordinance states that every person making payment to non-resident is legally obliged to deduct tax at source at the rate of 5% as specified in Division II of part 3 of the First Schedule to the ordinance. It was argued by the learned counsel for the petitioners that respondent No.2 vide Circular No.5 of 2008, issued explanatory note with regard to certain amendments made in F.A. 2008. whereby it was specifically mentioned that the taxpayer would not be required to obtain nil withholding certificate from the Commissioner where the payment of non-resident company falls under AFAODT. It is further clarified in the said circular that this is being done to reduce the hassle of taxpayers from getting exemption certificate for remittance of such amount without deduction of tax as per the provisions of treaty. The respondent No.2 thereafter issued a corrigendum dated 27-08-2008 clarifying that those

taxpayers are not required to obtain exemption certificate from the Commissioner in cases where the payments made to non-resident companies are made on reduced rate as per AFAODT. The Respondent No.4 thereafter issued the impugned show-cause notices under the provisions of section 161 read with section 205 of the Ordinance asking the petitioners to explain as to why tax has not been deducted at source in respect of the payments made to the said non-residents in respect of re-insurance amounts and further to explain as to why penal action as permissible under law may not be taken against them for not deducting the said tax. As per the learned counsel the provisions of section 107 of the Ordinance have an overriding effect over the other provisions of the Ordinance and any entity or enterprise having no P.E. in Pakistan could not be taxed in respect of its business profit earned in Pakistan. For the sake of ease of reference the said section is reproduced herein below:

107. Agreements for the avoidance of double taxation and prevention of fiscal evasion.---(1) The Federal Government may enter into an agreement with the government of a foreign country for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income imposed under this Ordinance and under the corresponding laws in force in that country, and may by notification in the official Gazette make such provisions as may be necessary for implementing the agreement.

(2) Where any agreement is made in accordance with sub-section (1), the agreement and the provisions

made by notification for implementing the agreement shall, notwithstanding anything contained in any law for the time being in force, have effect insofar as they provide for-

Relief from the tax Payable under this Ordinance;

The determination of the Pakistan-Source income of non-resident persons;

Where all the operation of a business are not carried on within Pakistan, the determination of the income attributable to operations carried on within and outside Pakistan, or the income chargeable to tax in Pakistan in the hands of non-resident persons, including their agents, branches and permanent establishments in Pakistan;

The determination of the income to be attributed to any resident person having a special relationship with a non-resident person; and

The exchange of information for the prevention of fiscal evasion or avoidance of taxes on income chargeable under this Ordinance and under the corresponding laws in force in that other country,

(3) Notwithstanding anything in subsection (1) or (2) any agreement referred to in subsection (1) may include provisions for the relief from tax for any period before the commencement of this Ordinance or before the making of the agreement,

11. In support of their contention the learned counsel have relied upon a decision given by this court in I.T.A. No. 297 of 1997, which subsequently was approved by the honorable supreme court in 542-544-K of 1999. The honorable High Court vides its decision observed as under:

“A plain reading of section 163

of the Income Tax Ordinance is sufficient to hold that existence of a duly executed treaty between the Government of Pakistan and any country would oust the application of the Income Tax Ordinance and provide over riding effect to the treaty in respect of the matters enumerated in clauses (a) to (e) if subsection (2) of section 163 of the Income Tax Ordinance and avoidance of Rule 20 of the Income Tax Rules 1986 would be covered by clause (a) of section 163 (2) of the Income Tax Ordinance. The presence of specific clause in the treaty for ousting the application of the Income Tax Ordinance and the rules made thereunder is not a condition or requirement for giving overriding effect to the provisions of the treaty and ousting the application of the Income Tax Ordinance.”

It would not be out of place to mention that the provision of section 163 of the repealed Ordinance is in Para materia with section 107 of the Ordinance, 2001

12. In an another case messrs American Express Bank Karachi v. Commissioner of Income Tax (2009 PTD 1791) it was held by a Division Bench of this Court that “provisions of the treaty prevail over provisions of the Income Tax Ordinance and it is a settled law that special laws prevail over general laws”. In an another case Mountains Estate Mineral Enterprises v. Commissioner of Income Tax (2008 PTD 1087) it was held that “ where the applicant have no P.E in Pakistan, their income is exempt under the provisions of AFAODT and the incomes generated in this regard are not taxable in Pakistan”. It is trite law that the question of deduction of tax does not arise where the payments made to the non-residents are exempt from tax.

However prior to remitting the amount by a Pakistani company to the non-resident company the said Pakistani Company has to first obtain a nil withholding certificate from the concerned Commissioner who after satisfaction grants the same to the concerned Pakistani Company. The onus in this regard definitely lies on the Pakistani Company to satisfy the concerned Commissioner that the amount which is being remitted does not require any deduction of tax at source. There is also no denying of the fact have petitioner business connection with non-resident companies as it is for the petitioners to satisfy that the amount being remitted by them could not be considered to be the incomes accruing/arising in Pakistan or these payment could not be considered as Pakistan source income. It is for the petitioner to prove that the non-resident companies have no business connection in Pakistan and the provisions of Ordinance are not attracted, in the cases where in their opinion the provisions of AFAODT are attracted. It is also a settled law that in the case of an enterprise of contracting state with which Pakistan as a treaty, the provisions of the treaty will determine the rights and obligation of the said non-resident company.

13. As per the learned counsel of the petitioner amounts of re-insurance payment made to a foreign enterprises have been deemed to be the Pakistan source income but in view of the explicit definition of the term P.E as given in AFAODT the term "except in regard to re-insurance" has been specifically excluded from the term P.E., meaning thereby that the designers of the

international treaties do not want this payment to be taxed in the State from where these payment are being made to the other contracting State. The perusal of the various treaties would show that in these treaties while defining the terms P.E. the insurance enterprise of contracting State shall be deemed to have P.E in the other Contracting State shall be deemed to have P.E. in the other contracting State if it collects premium in respect of that other State except "re-insurance premium". It would not be out of place to mention that this clause is unamended even today. In the instant petitions also petitioners are not legally obliged to make any deduction of tax at source due to the reason that this type of payment falls outside the ambit and scope of the Ordinance and by no stretch of imagination be taxed either as that of Pakistan source income or could be legally deemed to be the income accruing or arising in Pakistan.

14. The upshot of the above discussion is that the claim of the petitioner is twofold their first submission is that as the provisions of the treaty have an overriding effect over the tax laws hence the amounts of the re-insurance premium could not be taxed either as Pakistan source income or could be legally deemed to be the payments accruing/arising in Pakistan. The next claim of the petitioner is that since the payment which they are making to the non-resident foreign enterprises is not liable to tax in Pakistan, hence they are not legally bound to deduct any tax at source in respect of the payments being made to the foreign enterprises.

15. However in our opinion the

re-insurance premiums paid to the foreign enterprises where AFAODT is available would fall outside the scope of the Tax because of the fact that the provisions of section 107 of the Ordinance, which has remained unamended even today, have an overriding effect and prevail over the ordinary tax laws, as specifically discussed in the decisions referred supra. It would not be out of place to mention that the amendments made in sections 101 and 152 of the Ordinance vide F.A.2008 do not start with the non obstante clause "notwithstanding anything contained in this Ordinance or any other law for the time being in force" makes, in our view, these provisions still subservient to those provisions of the law which have an overriding effect over the sections.

16. Now coming to the second limb of the argument of the petitioner that the respondents are misinterpreting the provisions of F. A. 2008 in demanding that prior remitting these amounts to the foreign enterprises the petitioner are under the legal obligation to obtain a nil withholding certificate from the Commissioner as per the provision of section 152 (5) of the Ordinance. In our view the issue can also be judged from another angle. We find that although the provision of section 152(5) of the Ordinance directs a taxpayer to seek approval from the Commissioner for remitting the payment to the non-resident without deduction of tax, however, they do not specify as to the penal consequences in the event the approval is not obtained. We also note that the legislature has used the word "shall" requiring the person to furnish to the Commissioner the

relevant information should he choose to obtain the approval under section 152(5) of the Ordinance, and states as under-

“the person shall, before making the payment, furnish to the Commissioner a notice in writing setting out-

the name and address of the non-resident person; and

the nature and amount of the payment.

“

17. A view is taken by the counsel of the department that by using the word "shall", the legislature has made the above provision mandatory in nature and defiance whereof must result in action against the taxpayer. However, we are not impressed with this argument for the reason that section 152 of the Ordinance as a whole does not specify the consequences of not following the requirement of informing the Commissioner if the person chooses to make the payment without deduction of tax. We are of the view that merely on the basis of the use of the word "shall" it could not be construed that it is a mandatory provision of law but is a directory provision and for not following a directory provision, a taxpayer cannot be penalized. We are guided in this regard by the decision given by the Hon'ble Supreme Court of Pakistan in the case of Niaz Muhammad Khan v. MianFazalRaqib PLD 1974 SC 134, wherein the Hon'ble apex Court observed as under:--

"As a general rule, however a statute is understood to be directory when it contains matter merely of direction, but not when those directions are followed up by an express provision that, in default following them, the acts shall be null and void. To put it

differently if the act is mandatory disobedience entails serious legal consequences amounting to the invalidity of the act in disobedience to the provisions."

Similar view was adopted in the decision MianAsif Islam v. Mian Muhammad Asif and others PLD 2001 SC 499.

In (2003) 259 ITR 1 HemalathaGargya v. CIT, the Supreme Court of India discussed the mandatory effect of the provisions of section 67(1) of the Indian income Tax Act, 1961 and held as under-

"The use of the word "shall in a statute, ordinarily speaking, means that the statutory provision is mandatory. It is construed as such unless there is something in the context in which the word is used which would justify a departure from this meaning. There is nothing in the language of the provisions of the scheme which would justify such a departure. On the other hand, the provisions of section 67(2) make it abundantly clear that if the declarant fails to pay the tax within the period of three months as specified, the declaration filed shall be deemed never to have been made under the scheme. In other words, the consequences of non-compliance with the provisions of section 67(1) relating to the payment have been provided. It is well-settled that when consequences of the failure to comply with the prescribed requirement is provided by the statute itself, there can be no manner of doubt that such statutory requirement must be interpreted as mandatory (see Maqbul Ahmad v. OnkarPratapNarian Singh, AIR 1935 PC 85, 88)."

18. Conversely, the provisions of subsection (5A) of section 152 of the Ordinance also require the

Commissioner to pass an order within 30 days of the receipt of the application from the taxpayer under section 152(5) of the Ordinance. Here also, the word "shall" has been used. However, it has not been specified as to what will happen in case the Commissioner does not pass an order within the period provided in section 152(5A) of the Ordinance. Accordingly, we can safely say that these provisions are also not mandatory. Although by going with the argument of the counsel for the department that the provisions of section 152(5) of the Ordinance are mandatory, it can be said that the provisions of section 152(5A) of the Ordinance are also mandatory but as stated above, we are not inclined to hold this for the reason that mere use of the word "shall" does not make a provision mandatory.

19. Interestingly, the provisions of section 161 of the Ordinance also do not say that failure to comply with the provisions of section 152(5) of the Ordinance must result in an action against the taxpayer treating him personally liable to pay the amount of tax not deducted by him since he has not obtained the approval from the Commissioner as envisaged in sections 152(5) and (5A) of the Ordinance above. It is well-established that while interpreting the statutes, the court has to find out as to what the intention of the legislature was and what the object of the provision was. Intention is the essence of the statute and the intention of the legislature as embodied in the statute constitutes the law thereof. We find that section 101 of the Ordinance contains the scope as to the "Geographical source of income" liable to Pakistan tax. Unless it is established that a certain payment

has some nexus with Pakistan, the same cannot be brought to tax in Pakistan. Where Double Tax Treaties operate the Ordinance by virtue of its section 107 becomes non-operative and the taxation of the particular amount is then governed by the respective Double Tax Treaty. Accordingly, if a payment is not chargeable to tax under the Double Tax Treaty, the same cannot be held liable to deduction of tax for, a tax which is not ultimately payable cannot be collected in advance as has been held by the Hon'ble Lahore High Court in 1998 PTD 2116 *Union Bank Limited v. Federation of Pakistan*.

20. We are therefore, of the view that unless it is established that the payment is chargeable to tax in Pakistan, action under section 161 of the Ordinance against the taxpayer cannot be taken merely for the reason that he has not obtained approval from the Commissioner in terms of Section 152(5) of the Ordinance as discussed above. Moreover, the related expense can also not be disallowed in terms of section 21(c) of the Ordinance which itself makes it clear that a deduction claimed can only be disallowed if the tax if required under the Ordinance is not deducted. While holding this, we are guided by the well-settled principle of law that where a provision is open to two reasonably possible interpretations, then, the interpretation which favours the taxpayer has to be adopted.

21. The learned counsel of the respondent has also shown his apprehension that in the case a payment is made to a non-resident without deduction of tax at source that portion of tax is gone forever and the exchequer will lose its due share of tax. We do not subscribe to this argument of the learned counsel as the answer to this argument is given in Circular 5 of 2008 by specifically mentioning that:

“2. It is also clarified that in the wake of amendment made in subsection (5) of section 152 of the Income Tax Ordinance, 2001 vide Finance Act, 2008 the taxpayer is not required to give notice to the Commissioner in respect of 'payments liable to reduce rate under the relevant agreement for avoidance of double tax'. This amendment does not absolve the taxpayer from the disclosure of such payments in the quarterly/annual statement of deduction of tax under section 152 of the Ordinance as prescribed under rule 58 of the Income Tax Rules 2002. All payments made to a non-resident person; whether exempt or liable to reduce rate of tax are required to be recorded in the aforesaid statement to be filed by the payment”.

22. It would not be out of place to mention that in the case of wrong or misdeclaration in respect of the quarterly/annual statements filed by a tax payer would entail the said tax payment to the penal provisions as provided under the law and the department has every authority

under the law while examining the quarterly/annual statements filed by a taxpayer and to ask for the details concerning these statements.

23. We therefore are of the opinion that in the case where the payment of re-insurance is being made to the non-residents which is covered under AFAODT, they are entitled to exemption. Hence while agreeing with the contentions raised by the counsel for the petitioners that issuance of exemption certificate was wrongly declined to the petitioners, we allow these constitution petitions. As a result thereof the show-cause notices issued under section 161/205 of the Ordinance and the orders passed in respect thereof by the respondents are accordingly hereby quashed.

24. In view of the discussion made supra all the above petitions are disposed of in the above terms along with the listed – applications. There shall however no orders as to cost.

S . A . K . / E - 3 / K
Petitions disposed of.





Together for the Future

PAK-QATAR FAMILY & GENERAL TAKAFUL

A SHARIAH COMPLIANT INSURANCE COMPANY

Takaful is a Shariah-Compliant risk mitigation tool that serves as an alternative to conventional insurance.

Based on the values of cooperation and brotherhood

Takaful offers transparency
convenience and complete peace of mind.

Sponsored by:



UAN (021) 111 TAKAFUL (825238)

PAK-QATAR FAMILY & GENERAL TAKAFUL
Together for the Future

www.pakqatar.com.pk

Automobile Specialists

Auto Scan WORKSHOP

We Promptly & Efficiently attend the
Vehicle of any
INSURANCE COMPANY



Services Available:-

Mechanical, Denting, Painting
(Oven Finishing System)
Radiator, Wash Plant (Automatic),
Electric, Upholstery,
Spare parts, Mobil Oil & Service Station.



CHAUDHRY MUHAMMAD IQBAL
A.E.E. (A.E)
(Chief Executive)

Khiali Bye Pass, Gujranwala.
Tel: 055-4283677 Cell: 0300-9648353



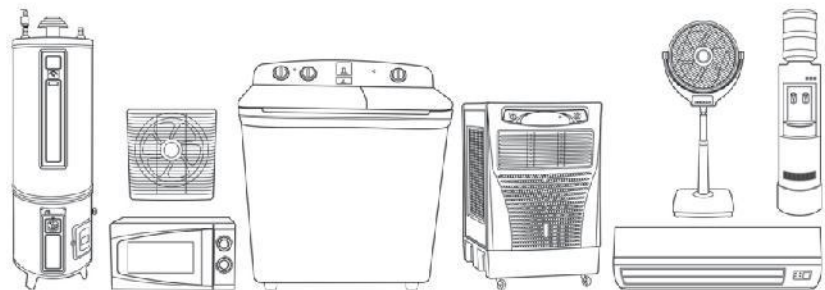
We use
World
Automobile
RECOMMENDED
PAINT
(ICI England)
with
**SPRAY
BOOTH**





Discerning women choose the best

SUPER asia[®]
APPLIANCES
 نسل در نسل آپ کے ساتھ
www.superasia.biz





**Helping people
take control of their lives**

Pioneer in Credit Linked Insurances

- * Automobile
- * Fire & Allied Perils
- * Cargo and Hull
- * Miscellaneous Accidents



Remaining in business for over 25 years, our highly qualified and matured team of professionals understand the importance of gaining your trust in providing you innovative solutions and expert advice. We believe that integrity, honesty and trust is the basis of our success and look forward to continuously improving our standards and performance in years ahead.

EAST WEST INSURANCE COMPANY LIMITED

410-414 EFC House
M.A. Jinnah Road Karachi
Tel: (021) 32313304-11
Fax: (021) 32310851, 32200128
Email: ewins@brain.net.pk
info@eastwestinsurance.com.pk
Web: www.eastwestinsurance.com.pk

FORWARD SERVICE DRIVE FOCUS HARMONY INNOVATION
 COMMITMENT RESPONSIBLE INTEGRITY
 PRUDENT COMMUNITY BELIEF
 TEAMWORK
 DRIVE SERVICE HARMONY
 RESPONSIVE
 DIVERSITY
 FORWARD PEOPLE
 SERVICE TEAMWORK COMMUNITY
 INNOVATION
 PASSION INTEGRITY
 HARMONY
 DIVERSITY FORWARD
 COMMITMENT
 PASSION TEAMWORK
 TEAMWORK RESPONSIVE
 POSITIVITY DRIVE
 RESPONSIBLE
 COMMUNITY INTEGRITY
 DIVERSITY FOCUS
 PRUDENT FORWARD
 INNOVATION
 PURSUIT
 RESPONSIVE HARMONY WE DIVERSITY RESPECT DRIVE
 CELEBRATE

FORWARD DRIVE
 INNOVATION PURSUIT SERVICE
 HARMONY BELIEF INTEGRITY
 RESPONSIBLE PEOPLE
 SERVICE COMMUNITY TEAMWORK
 FOCUS COMMITMENT
 POSITIVITY FORWARD
 TEAMWORK RESPECT
 PRUDENT
 COMMUNITY DIVERSITY
 SERVICE
 FORWARD
 HARMONY TEAMWORK
 DIVERSITY
 INTEGRITY
 RESPONSIBLE
 FORWARD DIVERSITY RESPECT
 HARMONY DIVERSITY
 RESPONSIVE
 TEAMWORK FORWARD
 PRUDENT
 SERVICE
 FORWARD DIVERSITY
 RESPECT
 HARMONY
 PRUDENT RESPONSIBLE
 INTEGRITY
 A PROUD LEGACY
 AND MAJOR
 LANDMARK

Two Decades of Glorious Services... and Still Counting!

Our journey of 20 years with you by our side has been a gratifying experience. We are committed to excellence in everything we do, striving to deliver beyond your expectations; setting higher standards year by year, managing all your financial planning needs.

A big thank you to all our esteemed clients, partners, distributors and team members for your belief and trust, in making this a truly fulfilling journey.



LIFE

Zaroori Hai

021-111-338-111

www.efulife.com

www.facebook.com/EFULifeAssurance



Our greatest
accomplishment continues to be
your **trust** for over 80 years

Trust is priceless.
We remain committed to customer trust
- our greatest accomplishment.

EFU GENERAL INSURANCE LTD.
your insurance company
www.efuinsurance.com

□ THINER

EFU - The only insurance group in Pakistan underwriting all classes of business: LIFE - GENERAL - HEALTH