

## **FOREX RESERVES CROSS \$10BN MARK**

**KARACHI:** The country's total liquid foreign exchange reserves crossed the \$10 billion mark supported by foreign inflows. According to the weekly foreign exchange report issued on Friday, the total liquid foreign reserves held by the country increased by \$292 million to stand at \$10.139 billion as of March 17, 2023 compared to \$9.846 billion as of March 10, 2023. During the week under review, SBP received \$ 500 million as government of Pakistan commercial loan disbursement. After accounting for external debt repayments, SBP reserves also rose by \$ 280 million to \$ 4.6 billion at the end of the last week, up from \$4.32 billion. The current level of SBP's reserves can meet the import bill of one month. Net foreign reserves held by commercial banks also mounted up by \$13 million to \$ 5.54 billion during the last week.

## **CASH MARGIN REQUIREMENT ON GOODS IMPORT REMOVED**

**KARACHI:** The State Bank of Pakistan (SBP) Friday announced the removal of Cash Margin Requirement (CMR) on import of goods. Analysts said that the step has been taken to resume the International Monetary Fund (IMF) Extended Fund Facility (EFF) programme and get the loan tranche of \$1.2 billion.

The SBP had taken a number of measures to curtail the import bill and reduce the pressure on the foreign exchange reserves. As a part of these steps, cash margin requirement was imposed on a number of imported items to control the rising import bill. Most of the CMR were imposed during the last year (CY22), when the country's foreign exchange were rapidly depleting due to massive external debt servicing and low foreign inflows.

The SBP's this move helped contain the goods import bill at \$37.38 billion during the first eight months of this fiscal year (FY23) compared to \$47.33 billion in the same period of last fiscal year (FY22), showing a decline of \$10 billion. However, now the SBP has decided to remove the cash margin requirement on the goods import. According to a circular issued on Friday, SBP has decided to withdraw the existing Cash Margin Requirement on import of items with effect from March 31, 2023.

Accordingly, CMR instructions issued by the SBP vide BPRD Circular No. 02 of 2017, BPRD Circular No. 05 of 2018, BPRD Circular Letter No. 30 of 2021, BPRD Circular Letter No. 09 of 2022, BPRD Circular Letter No. 25 of 2022 and BPRD Circular Letter No. 37 of 2022 would stand withdrawn with effect from March 31, 2023. Analysts said that it seems another step to revive the stalled IMF program and get the loan tranche to build the State Bank's foreign exchange reserves, which stood at \$ 4.6 billion.

In addition to complying with the IMF requirements, the removal of cash margin will support the ease of doing business in Pakistan as a number of companies were facing shortage of raw material due to imposition of cash margin restrictions.

The government is making efforts to resume the IMF program to get the EFF tranche of over one billion dollars. The IMF delegation visited Pakistan during January 31-February 9 to hold discussions under the ninth review of the EFF arrangement. At the end of the visit, the IMF team welcomed the Prime Minister's commitment to implement policies needed to safeguard macroeconomic stability and accepted that considerable progress was made on policy measures to address domestic and external imbalances. However, the IMF mission was not fully satisfied and asked for further progress on pending issues. Analysts said it is crucial for Pakistan to get a staff level agreement with the IMF to obtain EFF tranche as the release of loan from the IMF will unlock further inflows from other international creditors.

## **OGRA DISCUSSES EXCHANGE RATE ADJUSTMENT MECHANISM WITH OMCs**

**ISLAMABAD:** The Oil and Gas Regulatory Authority (Ogra) convened a meeting with the oil marketing companies (OMCs) on Friday on their request to discuss the mechanism of exchange rate adjustment last week.

The meeting was attended by the industry including the OCAC, the OMAP, representatives of the Ministry of Energy (Petroleum Division), and the Ogra. The regulator's finance department explained the Mechanism of Exchange Rate Adjustment in-depth, so that the stakeholders may understand the process. It is pertinent to mention that the Ogra implements the policies of the federal government. Further, the Ogra Authority heard the issues of the OMCs and wherein, detailed deliberations were done in this regard to improve the understanding of the participants. It has been noted with great concern that a counterproductive media campaign is being run against the Ogra, which is absolutely rebutted.

The Ogra is cognisant of its mandate and is fully committed to work in public interest. Federal Government/ ECC of the Cabinet Division has given price formula of MS (Petrol) and HSD (Diesel) with effect from 1st September 2020, wherein, the mechanism through which the actual forex losses could be recovered as under:

Exchange rate to be used as provisionally available for Pakistan State Oil (PSO) but to be converted to actual upon the retirement of LC (not later than 60 days from BL date), any adjustment to be made as prior period adjustment as per present practice, already approved by ECC vide its decision on April 09, 2020. Other cost components (C&F price of PSO, incidentals, custom duty) mentioned above may also be adjusted on an actual basis in the next fortnight.

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## **OGRA ACCUSED OF FLOUTING PRICE MECHANISM: OMCS SEEK RECOVERY OF EXCHANGE RATE LOSSES ON PETROLEUM IMPORTS**

ISLAMABAD: The Oil and Gas Regulatory Authority (Ogra) and oil marketing companies (OMCs) are locked in a tug of war over the recovery of exchange rate losses on imports, which have put the latter on the verge of collapse.

Last month, OMCs had conveyed to the government that they had incurred losses of Rs32 billion in just one fortnight of February owing to sudden depreciation of Pakistani rupee against the US dollar.

According to sources, the issue was taken up in a meeting held by the regulator on Friday.

During the huddle, it was highlighted that the regulator was violating the oil pricing mechanism covering the exchange rate losses, which was approved by the federal government.

OMCs argued that Ogra was bound to settle the exchange rate losses within a month's time in line with the oil pricing formula.

In recent months, the regulator had been settling the exchange rate losses after 90 days instead of 30 days. This has pushed the OMCs on the verge of collapse, according to sources.

Ogra was reluctant to follow the approved pricing mechanism. It insisted that the OMCs should retire Letters of Credit (LCs) for oil imports after selling petroleum products in market without settling the exchange rate losses.

OMCs, other than PSO, had also requested for allowing them not to follow the date of LCs opened by PSO. At present, oil prices are linked with the cost of imports made by PSO.

Meanwhile, Ogra in a statement said "it is committed to protecting consumer interest as well as providing a level playing environment for its stakeholders."

Ogra convened a meeting on the request of OMCs to discuss the exchange rate adjustment mechanism. It was attended by industry representatives including the Oil Companies Advisory Council (OCAC), Oil Marketing Association of Pakistan (OMAP) as well as officials of the Ministry of Energy (Petroleum Division) and Ogra.

Ogra's finance department explained the exchange rate adjustment mechanism in depth so that the stakeholders may understand the process.

It was noted with deep concern that a counterproductive media campaign was being run against Ogra, which was rebutted. "Ogra is cognizant of its mandate and is fully committed to working in public interest," the regulator emphasised.

Last month, oil companies claimed that they had suffered a huge loss of Rs35.88 billion in the wake of artificial control of the government over petroleum product prices.

Of the total loss, the currency exchange loss was calculated at around Rs32.6 billion for the second fortnight of February 2023.

Separately, the oil industry said that it was incurring a loss of Rs2.9 billion on account of customs duty and Rs305 million due to low margins. Industry players say the government is violating its approved oil pricing formula and artificial price adjustments are being made on verbal orders.

According to them, duties on high-speed diesel (HSD) and petrol imports have been reduced following verbal instructions of Ogra.

OCAC Chairman Waqar Siddiqui, in a letter to Minister of State for Petroleum Musadik Malik last month, warned that the government had been making artificial adjustment in oil prices without following the approved formula.

He pointed out that the practice had continued since last year during which the oil industry suffered a loss of Rs35 billion. "The oil industry will not be in a position to meet oil demand if such artificial price adjustment continues."

Turning to industry margins, the OCAC chairman pointed to a long pending revision in margins of OMCs on motor fuels, which was approved by the Economic Coordination Committee (ECC) on October 31, 2022.

The revised margin of Rs6 per litre has not been fully incorporated into the HSD price to date.

The industry is enduring a severe financial crunch due to high global prices, depreciation of the rupee, increased LC confirmation charges, challenges in establishing and retiring LCs, high markup rates, high premiums on import, etc.

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## **CHINESE IPPS CIRCULAR DEBT: OUTSTANDING AMOUNT RISES TO RS350BN**

ISLAMABAD: The current outstanding payment on account of circular debt for Chinese **Independent Power Producers (IPPs)** has risen up to Rs350 billion with growing demands to clear the backlog. "The outstanding backlog of Chinese IPPs stands at Rs350 billion, which is being accounted at the rate of 14% while the remaining 86% is being paid regularly. The CPPAG stated that it will be further improved," it was announced during a **CPEC review** meeting held here on Friday.

Planning Minister Ahsan Iqbal chaired the meeting and discussed progress on Special Economic Zones, ML-1, KCR and various new development initiatives to be discussed by the Joint Working Groups (JWGs).

According to sources, without achieving any **substantial progress** towards finalizing the financing plan for the construction of the much-awaited ML-1 project, the CPEC progress review committee was informed that the Chinese side was working on financial mechanism for this multi-billion-dollar project. “A Joint Financial Committee meeting on ML-1 is expected during the ongoing month to finalise the terms and kick-start the Package-1 of ML-1,” top official sources were quoted as saying in the meeting.

The Chinese side requested Pakistan to share the updated feasibility study of the Karachi Circular Railway (KCR) as the feasibility study carried out in 2017 has become outdated. The Government of Sindh was asked to share the KCR updated feasibility study. The Sindh government representative assured to discuss the matter with consultants and give timelines for updating the feasibility within 15 days.

The planning minister emphasized the importance of enhancing Pakistan’s exports and directed following up on the PM’s proposal to China to attach its professionals to help develop Pakistan’s export sector during his visit to China. He said the top priority of the government’s 5Es agenda was to enhance exports, and Pakistan could benefit from Chinese expertise in this regard.

The updated status of Special Economic Zones (SEZs) was also discussed wherein the minister instructed to make the SEZs a medium to enhance exports. He said SEZs could foster collaboration and innovation, which could lead to development of new products and services better suited to demands of international markets.

The meeting also discussed proposals for the upcoming Joint Working Group (JWG), including Advanced Metering Infrastructure (AMI) Solar Projects and identification study of pumped storage hydropower projects. Ahsan instructed the authorities to review all matrix and present progress updates.

In addition, he discussed ML-1 and KCR projects. “We are committed to the CPEC development and ensuring its successful implementation,” said the minister. “We are taking all necessary steps to address the pressing issues and enhance exports, and we are grateful to China for its continued support in this regard.”

The meeting concluded with an emphasis on the need for close collaboration between Pakistan and China to ensure successful implementation of the CPEC and achieve the common goal of regional prosperity.

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## **PAYMENT DISPUTE WITH SNGPL: LDPL SERVES NOTICE OF FORCE MAJEURE UNDER PPA**

**ISLAMABAD:** M/s Liberty Daharki Power Limited (LDPL) has served notice of force majeure under Power Purchase Agreement (PPA) due to payment dispute on supply of gas by Sui Northern Gas Pipeline Limited (SNGPL).

The power company communicated cessation of Other Force Majeure Event (OFME) to CPPA-G through cessation of OFME letter. However, despite sharing of CPPA-G payment plan with the SNGPL and personal follow-ups with their management, the SNGPL has again suspended gas supply by giving instructions to the Plant Manager, Qadirpur Field vide SNGP Gas Suspension Letter.

In view of the current situation the company has reproduced Section 2.8 of the Settlement Terms which is annexure B to the PPA Amendment Agreement executed on 15 October 2021, as follows:

“Further understandings: The Parties further agree and declare that outside of any OFME period, any future outage or failure or interruptions to the complex’s generating capability and/or failure to deliver Net Electrical Output on account of non-supply of fuel by any of the Fuel Suppliers shall: (1) release the Company from any obligation to use backup fuel, (2) not to be treated as a Forced Outage/Partial Forced Outage under the PPA; and (3) be treated as an Other Force Majeure Event under the PPA.”

The company argued that now the performance of the Company to operate the Complex and to discharge its contractual obligations under PPA have been constrained on account of suspension of gas supply by the gas supplier, which is beyond the reasonable control of the Company, and as a consequence thereof, the company has declared Other Force Majeure Event under Section 13.1(c) with effect from 14:15 hrs of March 17, 2023.

According to the company upon declaration of Force Majeure, the Company shall be excused from the performance of its obligations under the PPA and shall not be liable for any failure in performing such obligations till such time the gas supply is restored by the SNGPL.

The power company has emphasized here that while the cause of OFME stems from delay in payments by CPPA-G, the LDPL and power consumers are left to suffer the consequences. "We therefore urge you to kindly take up the matter of payment plan directly with the SNGP as they are not convinced with the recent plan provided by CPPA-G," was the company's plea.

## **VIOLATIONS OF COMPANIES ACT: SECP IMPOSES HUGE PENALTIES ON TEXTILE, OTHER COS**

ISLAMABAD: The Securities and Exchange Commission of Pakistan (SECP) has imposed huge penalties on textile companies, cement manufacturers and other licensed entities for committing violations of different provisions of the Companies Act.

The SECP officials told media persons at the SECP Headquarters, on Friday that the companies have committed different violations under the companies' law. The SECP has issued orders against these companies under the enforcement drive of the commission. For example, Rs100,000 penalty has been imposed on Mandviwalla Mauser Plastic Industries Limited for violating sections 512(2) and 479 of the Companies Act, 2017 read with regulations 6 (1) and 27 (1)(iii) of the Listed Companies (Code of Corporate Governance) Regulations, 2019.

In the case of Flying Cement Company Limited, the SECP has also taken action against the company. Through another order, Pak Datacom Limited has acknowledged the delay in deposit of contributions to the Provident Fund Account. However, the SECP has duly considered that the Company had subsequently deposited the outstanding provident fund amount and rectified the aforesaid non-compliance; coupled with binding assurance for future compliance. In view of the foregoing, the SECP has concluded proceedings by imposing a penalty of Rs10,000 on the company.

In the matter of the show-cause notice issued to the Fateh Sports Wear Limited, the requirements of Section 211 of the Companies Act are explicit requiring all cash transaction of a company with its director to be conducted through banking channels.

The Company has also acknowledged that the aforesaid transactions are conducted with directors other than banking channels and requested for the compassionate view owing to the financial crises of the company and assurance of future compliance. Most of these payments were primarily made on behalf of the Company to utility companies on account of electricity bill, while one of the payments is made to the share registrar of the Company.

This reflects that these were bona fide payments, made on behalf of the Company, which are also not of substantial amounts. The operations of the company are closed of last few years, which resulted in financial crises for the company, and constrained directors to pay certain expenditure of the company on behalf of the Company. Therefore, warning has been issued to the company by the SECP.

The SECP has also imposed penalty of Rs40,000 on Premium Textile Mills Limited for violating provisions of section 205(1) and Section 207(1) of the Companies Act.

The SECP has also imposed penalty of Rs50,000 on Crescent Cotton Mills Limited for violating sections 176 and 183 of the Companies Act. A penalty of Rs50,000 has been imposed on Asim Textile Mills Limited under sections 176(1), 205(1) and 207(1) of the Companies Act, 2017.

The SECP has also initiated proceedings against Directors of Pakistan PVC Limited under section 166 of the Companies Act, 2017 read with Sections 169 and 479 thereof.

A penalty of Rs50,000 has been imposed on Dadabhoj Cement Industries Limited for the violation of regulation 7 of the (Code of Corporate Governance) Regulations, 2019. The supervision of unlisted companies is based on a risk-targeted approach where public sector companies and other companies involving direct or indirect public interest are prioritized. During the year, primary focus was on public sector companies and associates of listed companies. The other focus area included proactive actions against companies carrying out unauthorized business and compliance with the provisions of the Companies (Maintenance and Audit of Cost Accounts) Regulations, 2020 on applicable sectors e.g. sugar, cement, cooking oil & ghee, chemical fertilizers, wheat and flour, the SECP officials added.

## **NON-RESIDENTS: REIT RMCS ALLOWED TO ISSUE UNITS THRU PRIVATE PLACEMENTS**

**KARACHI:** The State Bank of Pakistan (SBP) has granted general permission to Real Estate Investment Trust (REIT) Management Companies (RMCs) for issuance of units through private placements and transfer in favor of non-residents. As per existing provisions, non-residents were allowed to invest in REIT Schemes listed at Stock Exchange and through new public offers. However, now the SBP has decided to amend some paras of Chapter 20 of Foreign Exchange Manual to provide more investment avenues to foreign investors.

In order to further facilitate foreign investment in REIT Schemes, in addition to the existing provisions, SBP has decided to allow general permission to REIT Management Companies to issue their units through private placements and transfer such units, in favor of non-residents.

Accordingly, the existing para 6 (A)(IV), 6(B)(IIIA), 6(B)(IV), 6(B)(VI), 7(i) , 7(ia), 7(vi)(a), 7(vi)(d), 7(vi)(h), 7(vi)(i) and 7(vii)(C) of Chapter 20 of Foreign Exchange Manual, have been replaced. As per Para 6(A)(IV), a company or firm (including a partnership) or trust or mutual fund or private fund or real estate investment trust (REIT) fund incorporated, registered and functioning outside Pakistan, excluding entities owned or controlled by a foreign government.

New para 6(B)(IIIA) allows private placement for issuance of new units of private funds established and operated by Private Fund Management Company licensed by SECP to provide private equity, venture capital fund management services; and REIT Funds established and operated by REIT Management Company licensed by SECP. The Para 6(B)(IV) allows the transfer of shares/units of companies/funds covered by sub para (III), (IIIA) and (IIIB) of Chapter 20 of Foreign Exchange Manual, under offer for sale or any other arrangement.

According to 6(B)(VI) issue of rights shares and bonus shares and issuance of additional units as right or bonus and/or reinvestment of dividends in all those cases where shares/units are held on repatriable basis by 'persons resident outside Pakistan' in accordance with the general or special permission of the State Bank.

Amended Para 7(i) allows the REIT companies for opening of foreign currency collection accounts with banks abroad or in Pakistan for receiving the subscription in foreign currency

Companies issuing shares or REIT Funds issuing units, out of new public offers, on repatriable basis, as permitted under sub para (B) (I) of preceding paragraph 6, may open foreign currency collection accounts with banks abroad or in Pakistan for receiving the subscription in foreign currency and they may also allow refunds from these accounts to unsuccessful applicants.

The amount subscribed by the successful applicants should be repatriated to Pakistan and foreign currency accounts closed within a week of allotment of shares/units. Proceeds Realization Certificate in evidence of subscription money having been repatriated to Pakistan shall be obtained by the company from the concerned Authorized Dealer for submission in original to the designated Authorized Dealer with the form prescribed by the SBP.

According to Para 7(ia), in the case of remittance of subscription money directly to Pakistan and its payment to the fund's rupee account (opened in the name of trustee), private funds/REIT funds may issue units, in terms of paragraph 6(B)(IIIA), for the rupee equivalent paid by the concerned Authorized Dealer as shown in the Proceeds Realization Certificate (s).

The amended Para 7(vi)(a) said that in case of issue of ordinary shares including Modaraba Certificates/Trust and Fund Units out of public offers under paragraph 6 (B) (I) Bank's Proceeds Realization Certificate (PRCs) in original with copy of the consent/permission of the Securities & Exchange Commission of Pakistan (SECP).

The Para 7(vi)(d) mentioned that in case of issue of rights shares or units of REIT funds through right under paragraph 6 (B) (VI) PRCs in original with copy of Board's Resolution. As per Para 7(vi)(h), in case of transfer of listed shares and units of funds under paragraph 6 (B) (II) Stock Broker's Memo and PRCs in respect of the cost of shares/units and transfer stamp money, both in original. Where the sale of shares/units is negotiated privately, documents establishing the deal and the price of the share/unit on Stock Exchange on the date of deal, should be furnished.

According to Para 7(vi)(i), in case of transfer of shares/units of unlisted companies/funds under paragraph 6 (B) (IV) Auditor's certificate for break-up value or net asset value in original, a copy of the audited accounts of the respective year, documentary evidence of the agreed sale price and original PRCs in respect of cost of shares/units and transfer stamp money (if applicable).



## **USE OF DELEGATED POWERS BY MINISTRIES, DIVISIONS: CABINET DIRECTS LAW MINISTER TO PREPARE GUIDELINES**

ISLAMABAD: The Federal Cabinet has directed the Minister for Law and Justice to structure appropriate guidelines for the ministries/Divisions aimed at allowing them to use delegated powers of federal government in a prudent way, well-informed sources told Business Recorder.

In February last year, the Federal Cabinet directed ministries/Divisions to review and amend their respective laws/rules and policies to substitute the word ‘federal government’ with other appropriate ‘authority’ aimed at not further burdening the Cabinet with routine cases.

However, despite passage of over a year and approval of Federal Cabinet on different occasions, the replacement of word “Federal Government with appropriate authority” has become a headache for the Federal Cabinet and ministries/Divisions as either routine cases are still being placed before the Cabinet or Ministries are not sending important cases to Prime Minister for approval.

This issue was raised again at a meeting of Federal Cabinet on March 17, 2023 when a summary of Ministry of Religious Affairs & Interfaith Harmony placed a summary regarding re-constitution of Pakistan Sikh Gurdwara Parbandhak Committee (PSGPC). During discussion, the Cabinet Members once again observed that routine matters like this and appointments were being presented before the Cabinet. It was recalled that the Cabinet had repeatedly directed the Ministries/Divisions to review all laws/rules/regulations to replace the word ‘Federal Government’ with other appropriate authority, so that the Cabinet was not burdened with routine matters.

The Minister for Law & Justice pointed out that some cases had been received in the Cabinet Committee on disposal of Legislative Cases (CCLC), which were approved, but the majority of Ministries/Divisions had not completed the exercise. During discussion on this issue, it was pointed out that the Ministries/Divisions were not exactly clear as to what was the appropriate level to delegate the authority. A review of exercise done by some ministries/Divisions revealed that even important matters, which warranted approval by the Prime Minister or at least the Minister, had been delegated to the level of Secretary. There was thus a need to formulate guidelines as to what should be the appropriate level commensurate with the nature and importance of the case. The Prime Minister directed the Minister for Law & Justice to suggest the same in the next Cabinet meeting.

The Federal Cabinet directed the Minister for Law & Justice to suggest guidelines in the next meeting, for timely completion of the exercise by the ministries/Divisions to review their respective laws/rules/regulations to replace the word federal government/government, with another appropriate authority, so that the Cabinet is not burdened with routine cases.

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## **USA: DEUTSCHE BANK SETTLES LAWSUIT OVER \$1.6BN BERNARD MADOFF CLAIMS**

NEW YORK: Deutsche Bank AG has settled a lawsuit in which it accused two offshore funds of renegeing on an agreement to sell it \$1.6 billion of claims in the bankruptcy of Bernard Madoff’s namesake firm. The settlement was revealed on Thursday by lawyers for the German bank and the Kingate Global Fund and Kingate Euro Fund in a letter filed in federal court in Manhattan. Terms were not disclosed, and the accord requires court approvals in multiple jurisdictions.

Incorporated in the British Virgin Islands, the Kingate funds funneled client money to Madoff for many years before his Ponzi scheme collapsed in 2008. The funds sold their claims against the former Bernard L. Madoff Investment Securities LLC to Deutsche Bank for 66 cents on the dollar in 2011. But the bank said the Kingate funds later got “sellers’ remorse” because the value of the claims rose substantially.

In March 2021, U.S. District Judge Edgardo Ramos rejected the Kingate funds’ request to dismiss Deutsche Bank’s case. Deutsche Bank had no immediate comment on Friday. Lawyers for the Kingate funds did not immediately respond to requests for comment.

In June 2019, the Kingate funds agreed to return \$860 million in a settlement with Irving Picard, the court-appointed trustee liquidating Madoff’s firm. Picard has recovered more than \$14.5 billion overall. Madoff died in April 2021 at age 82 while serving a 150-year prison term.

The case is Deutsche Bank Securities Inc v. Kingate Global Fund Ltd et al, U.S. District Court, Southern District of New York, No. 19-10823.

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