

Regulatory Procedure Dissolution of Defunct Limited Liability Company

(Easy Exit and Restoration)



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1. Legal Services, SMEDA-Punjab

The Legal Services (LS) is a part of Punjab office of the Small Medium Enterprises Development Authority (SMEDA) and plays a key role in providing an overall facilitation and support to the small and medium businesses. Information dissemination among the SMEs on the existing legal & regulatory environment and business to business and business to client contracting is of paramount importance and plays a pivotal role in their sustainable development.

2. Purpose of the Document

This regulatory procedure describes the process of dissolving a de-functional limited liability company. It summarizes steps and provides information and procedure that apply to winding up of a defunct Limited Liability Company, even all private and public non-listed companies including associations not for profit licensed under section 42 of the Companies Act, 2017 which are not carrying business and are not operational can get their names strike off the register of companies.

3. Disclaimer

The information contained in this template is meant to facilitate the businesses in de-registration/winding up of non-functional/non-operational companies. However, SMEDA, accepts no responsibility and expressly disclaim any and all liabilities for any and all losses/shortfalls caused by or motivated by recommendations from the information contained within this document. Although SMEDA's ambition is to provide accurate and reliable information; yet, the document is not an alternative to expert legal advice and should ideally be used in conjunction with the same. Any person using this document and or benefiting from the information contained herein shall do so at his/her own risk and costs and be deemed to have accepted this disclaimer.

All information contained in this document may be freely used provided that relevant acknowledgement is accurately quoted with each usage.

4. Words and Phrases¹

Defunct company	Company which has no assets and liabilities and not carrying any business and operation
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¹ Companies Act 2017

Dissolution of company	Official and formal close of business, while ceasing operations is part of this process
Electronic document	Documents in any electronic form and scanned images of physical documents
E-service	Any service or means provided by the Commission for the lodging or filing of documents electronically
LLC	Limited Liability Company
Non-List Company	A company which is not listed with Stock Exchange
SECP	The Securities and Exchange Commission of Pakistan

5. Relevant Law

Section 426 of the Companies Act, 2017 and Companies (Easy Exit) Regulations 2014 are applicable for getting name of a defunct company strike off from the Register of Companies maintained with the SECP. A company registered with the Securities and Exchange Commission of Pakistan (SECP) under the Companies Act, 2017 (erstwhile Companies Ordinance, 1984) has to fulfil certain obligations under the law by way of submitting periodic reports to the SECP. However, if a company stops functioning by any reason, it will have to get its name strike off from the SECP, otherwise it will continue to remain answerable to the SECP to submit the reports under different legal provision of the Companies Act, 2017. Also, under the law, an inactive company may have to pay annual fees to the SECP under section 424 of the Companies Act, 2017.

6. Relevant Authority²

Securities and Exchange Commission of Pakistan (SECP) is the only authority to apply for striking off company's name from the register of companies as per Companies (Easy Exit and Restoration) Regulations, 2014.

7. Companies that can take Easy Exit?

Under these legal provisions all private and public non-listed companies including associations not for profit licensed under section 42 of the Companies Act, 2017 which

² <https://www.secp.gov.pk/company-formation/closing-a-company/company-easy-exit-regulations/>

are not carrying business and are not in operation can get their names struck off the register of companies.

8. Companies that cannot take Easy Exit

Following kind of companies cannot apply for easy exit under the above stated legal provisions:

- a) subsidiaries of listed companies;
- b) public sector companies as defined in Public Sector Companies (Corporate Governance) Rules, 2013;
- c) foreign companies;
- d) trade organizations licensed under the Trade Organization Act, 2013, (II of 2013)
- e) companies which have liabilities outstanding in relation to any loan obtained from the banks or financial institutions, taxes, utility charges, or any obligations towards government departments or private parties;
- f) companies against which investigations, enquiries or inspections are either pending or are in the process of initiation or any matter/prosecution is pending before the court or any other competent authority;
- g) companies having dispute regarding management or shareholding;
- h) companies found involved in illegalities or fraudulent activities;
- i) housing and real estate development or real estate marketing companies; and
- j) Companies involved in soliciting public deposits and repayment thereof or delivery of promised goods or services there against is yet not completed.

9. Procedure For Striking Off The Name Of Company

9.1 Application to the Registrar of Companies-

As a first step, a defunct company is required to submit an application to the relevant registrar of companies where it is registered in Form EE-I) (Form EE-I is attached) along with following documents:

- a. copy of members' resolution as specified on Form EE-II (Copy attached);
- b. copy of the minutes of meeting specifically containing the view point of the dissenting member, if any;
- c. a declaration/indemnity on Form EE-III (Copy attached) by at least three fourth majority of the directors including chief executive of the company, duly verified by an affidavit administered before the Class-I Magistrate or Oath Commissioner / Notary public; and
- d. auditors' certificate, from a person not disqualified to act as an auditor of the company under the Ordinance, on the format given in the Form EE-IV (Copy attached); and
- e. Proof of payment of fee prescribed for submission of application.

Provided that the public company and its subsidiary, and private company having paid up capital of three million rupees or more shall furnish the certificate from a chartered accountant within the meaning of Chartered Accountants Ordinance, 1961(X of 1961).

(2) Where an application is made by a company formed or operating under any licensing regime (such as a security company etc.), or which has been granted approval, registration or enrolment by any authority or entity, such application shall be accompanied with no objection certificate from that respective authority or entity.

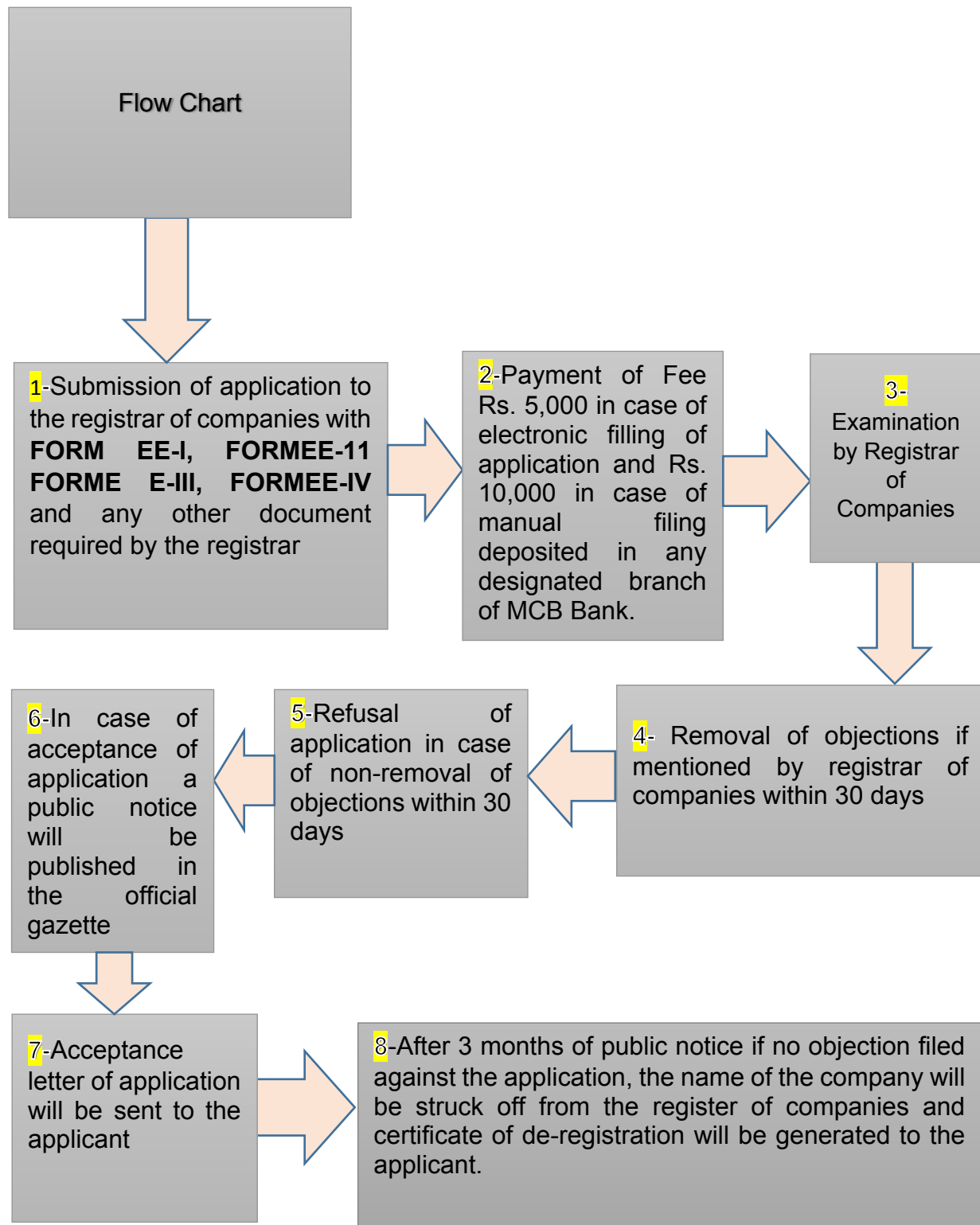
9.2 Examination of Application-

- The registrar shall examine the contents of an application along with the documents annexed with it to ensure that all the legal requirements in respect of filling the application have been complied with by the applicant.
- The applicant shall remove the deficiencies, if any, conveyed by the registrar, within thirty days from the date of communication of the same, or such an extended time as the registrar may allow:
- Provided that if the applicant fails to remove the deficiencies within the specified time, the application shall be considered as rejected and the applicant may be informed accordingly.
- After examination of the application, the registrar may publish a notice under sub-section (3) of section 426 of the Companies Act, 2017 in the Official Gazette

stating that at the expiration of three months from the date of that notice, unless cause is shown to the contrary, the name of the applicant company will be struck off the register of companies and the company will be dissolved, and such notice may also be placed on the website of the SECP for information of the general public.

- Where any objection or reservation is received, the registrar shall examine the same in detail to decide the application and inform the applicant, accordingly.
- The registrar, while considering the application may require the applicant to furnish such further information or clarification as it may deem appropriate, and communicate the deficiency, if any, contained in the application, to the applicant
- Where no objection or reservation is received, and the registrar is satisfied that the applicant company has no known assets and liabilities, and is not carrying on any business, on the expiration of three months, the registrar shall strike off the name of the applicant company from the register and send notice for publication in the Official Gazette in terms of subsection (3) of section 426 of the Ordinance, and on publication thereof the applicant company shall be dissolved.
- However, any liability be it criminal, civil or otherwise, if any, of every director, officer or member of the company shall continue and may be enforced by the relevant authority as if the company had not been dissolved.
- Fee for application: - An application for easy exit must be supported by a receipt of paid fee amounting to Rs. 5,000 in case of electronic filling of application and Rs. 10,000 in case of manual filing of application. The fee is to be deposited in any designated branch of MCB Bank.

10. Flow Chart



11. ANNEXTURES**11.1****FORM – EE -I**
[See Regulation 3(1)]**APPLICATION TO THE CONCERNED REGISTRAR FOR STRIKING OFF NAME
OF THE COMPANY FROM THE REGISTER OF COMPANIES**

1. CUIN (Incorporation Number):

2. Name of the Company:

3. Fee paid Rs: Bank Challan No.

4. Name and branch of bank:

Day Month Year

5. Date of payment:

6. Precise reasons for striking off name of the company:

Month Year

Passed Date of members' resolution

I I (As per Form EE-II)

7. Current Corresponding Address:

Verified that the information given above and in the accompanying documents, is true and correct to the best of my knowledge and belief and that nothing has been concealed.

8. Signature of Director/Chief Executive:

9. Name of Signatory:

10. C.N.I.C No. of Signatory:

Month Year

11. Date:

I _____ I I _____
I I

(to be filed with the concerned registrar at relevant CRO.)

11.2

FORM-EE-11

[See Regulation 3(1) (a)]

MEMBERS' RESOLUTION

In General Meeting of M/s. (the 'Company') held on (date) at (place address); the following members were

Present:

- | | |
|----------|----------|
| 1. _____ | 2. _____ |
| 3. _____ | 4. _____ |

(The number of members may vary from case to case and if the number of member is large, a separate list of members present in the meeting can be attached)

The members of the Company considered the fact that the Company;

- (i) has no known assets and liabilities;
- (ii) is not carrying on any business and is in operation;
- (iii) has no liabilities outstanding in relation to any loan(s) obtained from the banks, financial institutions, taxes, utility charges, or any obligations towards government departments or private parties;
- (iv) has no case pending against it before any court of law; and
- (v) has no investigation, enquiry or prosecution pending against it before any competent authority;

and accordingly, after carefully considering all aspects, have duly resolved unanimously / with majority (strike out the part not applicable), the following:

- (a) That an application under Companies (Easy Exit) Regulations, 2014 seeking striking the name of the Company off the register of companies under section 426 of the Companies Act, 2017, may be filed with the Commission; and
- (b) That Mr. /Ms. _____, Chief Executive/ Director of the Company be and is hereby authorized to file the application under the Companies (Easy Exit) Regulations, 2014 in this behalf.

In case, the resolution has been passed by simple majority and not unanimously, viewpoints of the dissenting members are given in the following (or attached if needed):

- 1. Mr. X was of the view that.....
- 2. Mr. Y was of the view that, etc.

[This shall not apply in case the resolution has been passed unanimously]

-Signed-

Chief Executive or Director or Secretary

11.3**FORME- E-III**

[See Regulation 3(l) (c)]

On Stamp Paper of Requisite Value
DECLARATION/ INDEMNITY

We, the following directors/ chief executive of M/s..... (The 'Company') do hereby solemnly affirm and state as follows:-

1. That the Company has..... (number) directors including chief executive and we form a majority of the board of directors of the Company;
2. That a resolution has been passed by the members of the company in their general meeting, held on... (Date) ... to file application seeking striking off the name of the company from the register of the companies under section 426 of the Companies Act, 2017.
3. That the resolution has been passed unanimously / with simple majority (strike out the part not applicable). [In case of resolution passed with simple majority, view point of dissenting members is attached separately.]
4. That the Company has no known assets, and is not carrying on any business or any operation;
5. That the Company has no liabilities outstanding in relation to any loan(s) obtained from the banks, financial institutions, taxes, utility charges, or any obligations towards government departments (including FBR) or private parties;
6. That neither any case is pending against the company before any court of law nor is any investigation, enquiry or prosecution pending against the company before Federal Government, Provincial Government, SECP, SBP, NAB, FBR or any competent authority;
7. That in case of any loss to any person or any valid claim from any person, if any, arising out of the striking off the name of the Company from the register of companies, we hereby undertake in writing:
 - (a) to pay and settle all lawful claims arising out of the striking off the name of the Company.
 - (b) to indemnify any person for any such loss that may arise pursuant to striking off the name of the Company.
 - (c) to settle all lawful claims and liabilities which have not come to our notice at this stage, even after the name of the Company has been struck off in terms of Section 426 of the Companies Act, 2017.
8. That we are fully aware of the fact that in case we make any false statement about any of the above matters, we shall be liable for civil as well as criminal consequences.
9. That the contents of the application and whatever stated above are true and correct to the best of our knowledge and belief.

Deponents

(Signed with names, father/husband's names, designations, residential addresses and CNIC numbers) Place:

Date:

Verified/Attested by
 Class-I Magistrate/Oath Commissioner /Notary Public
 Seal of Attesting Officer

11.4**FORM-EE-IV**

[See Regulation 3(1) (d)]

Auditors' Certificate

We have examined the books and record of M/s.....

(The 'Company') and have obtained all the information and explanation which to the best of our knowledge and belief were necessary for the purpose of this certificate and after due verification thereof, we certify that:

- a. the Company has no known assets and is not carrying on any business or any operation;
- b. the Company has no liabilities outstanding in relation to any loan(s) obtained from the banks / financial institutions, taxes, utility charges, or any obligations towards government departments or private parties; and
- c. the Company has obtained necessary no objection certificate (NOC) from all concerned licensing/permitting authority (Applicable only in case of company formed under licensing regime/special permission).

Place: Date:

(Signature with name of Auditors)

12. Application for Getting User ID and Password for E-Service of SECP

Dated _____

MIS wing,
Corporatization and Compliance Department,
Securities and Exchange Commission of Pakistan,
NIC Building, Jinnah Avenue,
Islamabad.

Subject: **E-Services User Identification and Password.**

Dear Sir / Madam,

I / We are desirous to incorporate company / file statutory returns through E-Services. You are therefore requested to issue user ID and password to our company namely

“ _____ ”

Our email address is as under:

For example abc@gmail.com

Enclosed:

Copy of CNIC and name availability letter

With Regards,

Signature of applicant _____

Signature of applicant _____

Name _____

Name _____

CNIC#: _____

CNIC#: _____