

**GOVERNMENT OF PAKISTAN**  
Securities and Exchange Commission of Pakistan

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*Islamabad, the 16<sup>th</sup> October, 2019*

**NOTIFICATION**

**S.R.O. 1233 (I)/2019.**- In exercise of the powers conferred by sub-section (2) of the section 282B of the Companies Ordinance, 1984 (XLVII of 1984), the Securities and Exchange Commission of Pakistan is pleased to make the following amendments in the Non-Banking Finance Companies and Notified Entities Regulations, 2008, further to the amendments notified in the official Gazette vide S.R.O. 639(I)/2019, dated June 20, 2019, namely:-

In the aforesaid Regulations,-

(1) after the regulation (10), the following new regulation shall be inserted namely,-

**“10A. Appointment of Independent Directors.**- An NBFC shall ensure compliance with the following requirements while appointing independent directors on its board,-

- (a) independent directors shall be selected from the data bank notified by the Commission in accordance with section 166 of Companies Act, 2017; and
- (b) the independent directors shall be elected in the same manner as shareholder directors are elected in accordance with section 159 of the Companies Act, 2017.”;

(2) after the regulation (11), the following new regulation shall be inserted namely,-

**“11A. Applicability of Listed Companies (Code of Corporate Governance) Regulations.**- The Listed Companies (Code of Corporate Governance) Regulations, 2019 shall be applicable on Asset Management Companies and Deposit taking NBFCs:

Provided that the Commission may exempt any specific NBFC or class of NBFCs from applicability of this regulation.”;

(3) in regulation (15B),-

(a) in sub-regulation (1), for the full stop at the end a colon shall be substituted and thereafter the following new proviso shall be inserted namely:-

“Provided that for an NBFC engaged exclusively in the business of issuance of guarantees to enhance the quality of debt instruments issued to finance infrastructure projects in Pakistan, the aggregate liabilities, excluding contingent liabilities and security deposits shall not exceed ten times of its

equity and qualified capital and for this purpose the Commission may specify, through circular, qualified capital and its terms and conditions.”; and

- (b) after sub-regulation (2), below the table and before the proviso the following new proviso shall be inserted namely:-

“Provided that for an NBFC engaged exclusively in the business of issuance of guarantees to enhance the quality of debt instruments issued to finance infrastructure projects in Pakistan, contingent Liabilities shall not exceed the 10 times of the equity and qualified capital and for this purpose the Commission may, through circular, specify the qualified capital and its terms and conditions.”;

- (4) in regulation (17),-

- (a) in sub-regulation (1), after proviso at the end, for the full stop a colon shall be substituted and thereafter the following new provisos shall be inserted namely:-

“Provided further that for an NBFC engaged exclusively in the business of issuance of guarantees to enhance the quality of debt instruments issued to finance infrastructure projects in Pakistan, the total outstanding Exposure (fund based and non-fund based) by an NBFC to a person shall not at any time exceed forty per cent (40%) of the equity (as disclosed in the latest financial statements) and Qualified Capital and for this purpose the Commission may, through circular, specify qualified capital and its terms and conditions:

Provided also that this relaxation shall be applicable to the NBFC as mentioned above:

- (i) for the first [five (5)] years of its operations; and
- (ii) for total outstanding Exposure in relation to finance raised otherwise from the public.”;

- (b) in sub-regulation (2), after proviso at the end, for the full stop a colon shall be substituted and thereafter the following new provisos shall be inserted namely:-

“Provided further that for an NBFC engaged exclusively in the business of issuance of guarantees to enhance the quality of debt instruments issued to finance infrastructure projects in Pakistan, the total outstanding Exposure (fund based and non-fund based) to any group shall not exceed fifty per cent (50%) of the equity (as disclosed in the latest financial statements) and Qualified Capital and for this purpose the Commission may, through circular, specify qualified capital and its terms and conditions:

Provided also that this relaxation shall be applicable to the NBFC as mentioned above:

- (i) for the first [five (5)] years of its operations; and
- (ii) for total outstanding Exposure in relation to finance raised otherwise

from the public.”

(5) in regulations (37),-

(a) for sub-regulation (2) and(3) the following shall be substituted, namely:-

“(2) An AMC shall have at least one investment committee which shall be responsible for selecting and developing appropriate investment and risk management strategies for the proper performance of the collective investment schemes and developing internal investment restrictions limits and restriction for Collective Investment Schemes.”;

(b) for sub-regulation (4) the following shall be substituted, namely:-

“(4) Any employee of Asset Management shall not,-

- (a) hold office as employee in another Asset Management Company;
- (b) hold any office including that of a director of another Asset Management Company; and
- (c) engage in brokerage services.”;

(c) in sub-regulation (7 ),-

(i) for clause (e), the following shall be substituted, namely:-

“(e) participate in a joint account with others in any transaction on behalf of the Collective Investment Scheme, except for collection account of the Collective Investment Schemes managed by it or for placement of order under a single UIN subject to mechanism approved by the Commission;”;

(ii) in clause ( h ), for the expression “fifteen” the expression “twenty five” shall be substituted”;

(iii) in clause ( ja ), for the semi colon at the end a colon shall be substituted and thereafter the following proviso shall be inserted, namely:-

“Provided that the subscription to an issue is allowed to the extent of limits prescribed under sub-regulation (3), (5), (6), (9) and (10) of regulation 55.”; and

(d) sub-regulation (8 ) shall be omitted;

(6) in regulations (38), in sub-regulation (2 ),-

(a) for clause (a), the following shall be substituted, namely:-

“(a) account to the trustee for any loss in value of the assets of the Open End Scheme or Closed End Scheme where such loss has been caused due to its gross negligence or willful act or omission;”;

(b) for clause (j), the following shall be substituted, namely:-

“(j) be obliged to allocate the redemption price on receipt of redemption application and process payment instrument immediately upon receipt of complete redemption application and to issue units not later than upon realization of proceeds accompanying an investment application complete in all respect;”;

(c) in clause (t), for the full stop at the end the expression ‘; and” shall be substituted and thereafter , the following new clauses shall be inserted namely:-

- “(u) act with due care, skill and diligence in carrying out its duties and responsibilities;
- (v) ensure that investments do not deviate from the Constitutive Documents or these Regulations or directions of the Commission;
- (w) develop and follow internal investment restrictions and policies;
- (x) review the performance of the Collective Investment Scheme on a regular and timely basis;
- (y) ensure that proper record of meetings and investment decisions is maintained;
- (z) record and sign decisions in line with guidelines and objective for investments and disinvestments separately for each Collective Investment Scheme; and
- (aa) develop criteria for appointing a diverse panel of brokers and monitoring compliance thereof to avoid undue concentration of business with any single broker.”;

(7) in regulations (40), for clause (f), the following shall be substituted, namely:-

“(f) such other company subject to such terms and conditions as the Commission may specify through a circular.”;

(8) in regulations (41),-

(a) clauses (i) and (j) shall be omitted; and

(b) for clause (r), the following shall be substituted, namely:-

“(r) not invest or redeem units of Open End Schemes for which it acts as trustee in the cases where there is a likelihood of a change in investment objective of the scheme or there is a likelihood of change in account policy or a significant change in the valuation of any asset or class of asset and the same has not been communicated to the inventors; and”

(9) in regulations (44), -

(a) for sub-regulation (6), the following shall be substituted, namely:-

“(6) No amendments including any modification, alteration and addition shall be made in the Constitutive Documents without prior notice of seven days to the unit

holders and consent of the trustee.”; and

(b) in sub-regulation (7), for the expression “ninety” the expression “thirty” shall be substituted;

(10) in regulations (55), sub-regulation (10),-

(a) in clause (a), for the explanation the following shall be substituted namely:-

“Explanation: For the purpose of clause (a) of sub-regulations (10) of regulation 55, the term “group” means persons having at least 30% or more shareholding in any other company, as per publicly disclosed information;”;

(b) in clause (b), the following proviso shall be inserted d, namely:-

“Provided that an Asset Management Company, on behalf of sector specific fund shall not take exposure more than 20% of net asset of collective investment scheme in listed group companies of the asset management company.”;

(11) in regulations (58), in sub-regulation (1), in clause (j), for the explanation the following new explanations shall be inserted, namely:-

“Explanation I:- Reverse repo transactions involving Government Securities or other debt securities stated as authorized investments in the Offering Document under an agreement and spread transaction through ready buy and future sale or future buy ready sale transaction to unwind the existing spread transaction or MTS or replacement thereof which are protected by the clearing company shall not be attracted by clause (j) provided risk management parameters are disclosed in the offering document of the scheme.

Explanation II:- For the purpose of sub-clause the expression “**spread transactions**” mean such transactions where shares of one company are purchased on one settlement date and simultaneously sold on another settlement date, that will be considered as one transaction and includes; ready buy and future sale and its unwinding or future buy and future sale and its unwinding.”;

(12) in regulations (60),-

(a) in sub-regulation (3), for clause (i) the following shall be substituted, namely:-

“(i) formation cost of the Collective Investment Scheme not exceeding 1.5 per cent of the net assets at the close of initial public offering (IPO) in case of an Open End Scheme and one percent of the paid-up capital in case of a Closed End Fund or ten million rupees whichever is lower;”;

(b) after sub-regulation (5), the following new sub-regulations shall be inserted namely:-

“(6) An AMC shall ensure adequate disclosure of the following expenses

and sales load to investor before soliciting investment,-

- (i) Total Expense Ratio;
- (ii) Management Fee as a percentage of net assets;
- (iii) Selling and Marketing expenses as a percentage of net assets; and
- (iv) Front-end, back-end and contingent load as a percentage of net assets.

(7) Asset Management Company shall prominently disclose on a daily basis, the following information regarding all Collective Investment Schemes on its website and on the website of Mutual Funds Association of Pakistan (MUFAP),-

- (i) Total Expense Ratio;
- (ii) Management Fee as percentage of net assets;
- (iii) Selling and Marketing expenses as percentage of net assets; and
- (iv) Front-end, back-end and contingent load as a percentage of net assets.”;

(13) in regulations (66A), in clause (d), the following explanation shall be inserted namely:-

“Explanations:- For the purpose of this, AMC shall ensure proper acknowledgment from investors on risk profiling and recommended Collective Investment Scheme as per risk profiling and in case investor select high risk product on its own choice, AMC shall also ensure proper acknowledgment from investor of his such selection.”.

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( Bilal Rasul )  
Secretary to the Commission