

PART-II

Statutory Notifications (S.R.O.)

Government of Pakistan

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

NOTIFICATION

Islamabad, the 18th July, 2011

S.R.O. 712(I)/2011.— In exercise of the powers conferred by Section 506A of the Companies Ordinance, 1984 (XLVII of 1984) the following draft Regulations are hereby published for the information of all persons likely to be affected thereby and notice is hereby given that objections and suggestions, if any, received within fourteen days of this publication in the official Gazette will be taken into consideration.

CHAPTER 1

PRELIMINARY

1. Short title and commencement.— (1) These Regulations shall be called the “Debt Securities Trustee Regulations, 2011”.

(2) They shall come into force at once.

2. Definitions. — (1) In these Regulations, unless there is anything repugnant in the subject or context, -

- (a) “Act” means the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997);
- (b) “Commission” means the Securities and Exchange Commission of Pakistan established under Section 3 of the Act;
- (c) “Debt Securities Trustee” means a person registered under these Regulations and appointed through a Trust Deed as a Debt Securities Trustee;
- (d) “Form” means a form specified through these Regulations;

- (e) “Issue” includes issue of debt securities through,-
 - (i) initial public offering by an issuer;
 - (ii) secondary public offering by an issuer;
 - (iii) an offer to the existing shareholders or debt security holders by an issuer; or
 - (iv) private placement to persons mentioned in and notified under Section 120 of the Ordinance ; and
 - (v) offer for sale to the public by a debt security holder/the offerer;
- (f) “Investment Finance Company” means a company as defined in clause (xxiv) of sub-regulation (1) of regulation 2 of Non-Banking Finance Companies and Notified Entities Regulations, 2008;
- (g) “Ordinance” means the Companies Ordinance, 1984 (XLVII of 1984);
- (h) “Regulations” means these regulations along with all Schedules, Forms and Annexures attached to it;
- (i) “Schedule” means a schedule specified in these Regulations;
- (j) “Scheduled Bank” has the same meaning as defined in clause (m) of Section 2 of the State Bank of Pakistan Act, 1956 (XXXII of 1956); and
- (k) “Trust Deed” means a trust deed executed by an issuer or an Offerer, as the case may be, in accordance with the provisions of Trust Act, 1882 (II of 1882);

(2) In these Regulations, unless there is anything repugnant in the subject or context, the words and expressions used but not defined in these Regulations shall have the same meaning as are assigned to them in the Act, the Ordinance and the Securities and Exchange Ordinance, 1969 (XVII of 1969) unless the context requires otherwise.

CHAPTER II

REGISTRATION OF DEBT SECURITIES TRUSTEE

3. Prohibitions. — (1) No person shall act as or perform the functions of a Debt Securities Trustee unless such person is registered with the Commission under these Regulations.

(2) Any person providing services as Debt Securities Trustee at the time of coming into force of these Regulations shall get itself registered under these Regulations within a period of six months from the date of notification of these Regulations in the official Gazette.

(3) A Debt Securities Trustee shall not be eligible to act as a Debt Securities Trustee to any issue,-

- (a) of its associated company or associated undertaking;
- (b) where the Debt Securities Trustee or any of its associated company or associated undertaking holds shares or any other security of the issuer;
- (c) where the Debt Securities Trustee has underwritten or intends to underwrite the issue or any other issue of securities by the Issuer;
- (d) where the Debt Securities Trustee or any of its associated company or associated undertaking has provided any guarantee with respect to the amount payable under such Issue; or
- (e) of its debtor .

4. Eligibility requirements for registration.— A person may apply to the Commission for registration as a Debt Securities Trustee under these Regulations if such person is authorized by its constitutive document to act as a Debt Securities Trustee and is,-

- (a) a Scheduled Bank;
- (b) a Development Finance Institution as notified by the State Bank of Pakistan; or
- (c) an Investment Finance Company.

5. Application procedure for registration. — (1) An application for registration as a Debt Securities Trustee shall be made to the Commission in Form A along with non-refundable processing fee of rupees three hundred thousand.

(2) The Commission, while considering the application for registration, may require the applicant to furnish such information or clarification regarding its activities and businesses not listed in Annexure “1” to Form “A”, as the Commission deems appropriate.

(3) Any subsequent change in the information provided to the Commission at the time of filing of application under sub-regulation (1) shall be intimated to the Commission within a period of three working days from the date of such change.

6. Grant of registration. – (1) The Commission while granting a certificate of registration to an applicant under Regulation 5(1) shall *inter-alia* take into account the following matters, namely,-

- (a) the ability of the applicant to safeguard the interest of debt security holders;
- (b) the necessary infrastructure like adequate space, equipment and financial and technical aspects to effectively discharge its activities as Debt Securities Trustee;
- (c) earlier refusal, if any, by the Commission for registration of the applicant as a Debt Securities Trustee;
- (d) conviction or adverse findings in investigation of directors or employees in the senior management level of the applicant in an offence involving, fraud or breach of trust;
- (e) penal action against the applicant or its director(s) for an offence under the Ordinance, Act and the Securities and Exchange Ordinance 1969 (XVII of 1969); and
- (f) any other matter as deemed necessary by the Commission.

(2) The Commission on being satisfied that the applicant is eligible for registration may grant a certificate of registration to the applicant in Form B.

(3) The certificate of registration shall remain valid for a period of three years from the date of registration unless it is cancelled or suspended earlier by the Commission.

7. Renewal of Registration. – (1) A Debt Securities Trustee shall, three months prior to the date of expiry of its registration, apply to the Commission in Form C for renewal of its registration along with a non-refundable processing fee of rupees one hundred thousand.

(2) The Commission upon being satisfied that the applicant is eligible for renewal of registration may grant a renewal of certificate of registration to the applicant in Form D:

Provided that till such time that the registration is renewed, the existing registration shall be deemed valid for the purposes of these regulations unless the registered trustee fails to apply with in such time as specified in sub-regulation (1) of Regulation 7.

(3) While granting renewal, the Commission may, in addition to the criterion laid down for grant of registration, also take in to account past performance of the Debt Securities Trustee.

8. Procedure where registration is not granted or renewed. – (1) The Commission, after giving a reasonable opportunity of hearing to the applicant, may refuse to grant or renew a certificate of registration if in the opinion of the Commission such applicant does not fulfill the requirements prescribe in these Regulations or where the Commission after taking in to account the facts, is of the view that it is not in the public interest or securities market to grant such certificate of registration or renewal thereof.

(2) The refusal to grant a certificate of registration or renewal thereof shall be communicated to the applicant within thirty days of the receipt of application under regulation 6 or 7, as the case may be, stating therein the grounds on which the application has been rejected.

(3) Any applicant, being aggrieved by the decision of the Commission under sub-regulation (1) may, within a period of thirty days from the date of receipt of such refusal, apply to the Commission for review of its decision.

(4) On receipt of the application made under sub-regulation (3), the Commission shall review its decision and communicate its findings, in writing, to the applicant within thirty days and the decision of the Commission in this regard shall be final.

(5) An applicant whose application for renewal of certificate of registration is refused by the Commission shall, from the date of receipt of the final decision of the Commission, not act as Debt Securities Trustee for any new Issue.

(6) A Debt Securities Trustee whose application for renewal is refused shall, on the day of the receipt of the final decision of the Commission, intimate to all the concerned parties including the issuers, the debt security holders, the concerned credit rating company and the stock exchange in case of listed debt securities about its inability to act as a Trustee.

(7) Debt Securities Trustee whose application for renewal of certificate of registration is refused by the Commission shall continue to act as such in all previous Issues in which it is acting as Debt Securities Trustee till the appointment of any other Debt Securities Trustee or complete redemption of such Issues.

CHAPTER III

DUTIES AND RESPONSIBILITIES OF DEBT SECURITIES TRUSTEE

9. Obligations of Debt Securities Trustee.— A Debt Securities Trustee shall,-

- (i) enter into a written agreement with the issuer before the opening of the subscription list for the subscription of debt securities and the agreement shall *inter- alia* contain that the Debt Securities Trustee has agreed to act as a trustee under the Trust Deed for securing interest of the debt security holders;
- (ii) ensure that the Trust Deed contains all terms and conditions specified in **Schedule I**;

- (iii) ensure compliance with the provisions of the Trust Deed;
- (iv) put in place a mechanism to resolve any conflict of interest situation that may arise in the conduct of its business as Debt Securities Trustee and where any conflict of interest arises it shall take reasonable steps to resolve the same in an equitable manner;
- (v) ensure that,-
 - (a) the profit and principal amount due on the debt securities has been paid to the debt security holders on due dates; and
 - (b) in case of secured debt securities, appropriate security has been created.
- (vi) enforce security, where necessary, in the interest of the debt security holders;
- (vii) efficiently do such acts as are necessary in the event the security becomes enforceable;
- (viii) regularly monitor compliance of the issuer with all the covenants of the Trust Deed and in case of listed debt securities, report the same on quarterly basis to the concerned stock exchange and non-compliance, if any, of the covenants of the Trust Deed shall upon its occurrence and coming into its notice or knowledge be publicly disseminated in at-least one Urdu and one English daily newspaper having wide circulation in all major cities of Pakistan;
- (ix) monitor the status of the redemption reserve, if any, established by the issuer for the redemption of debt securities and furnish, on semi-annual basis an update on the same to the Commission and in case of listed debt securities to the concerned stock exchange as well;
- (x) regularly monitor payment of profits to the debt security holders and redemption of the debt security and inform the Commission and the concerned stock exchange, in case of listed debt securities, of any default in payment of profit or redemption of debt securities;
- (xi) maintain proper record of the complaints received and a report on the number and nature of the complaints received and the manner in which such complaints have been redressed shall be provided to the Commission and the concerned stock exchange, in case of listed debt securities, on annual basis;
- (xii) ascertain that the debt securities have been converted or redeemed, where applicable, in accordance with the provisions and conditions under which they were issued;

- (xiii) inform the Commission immediately of any breach by the issuer of the Trust Deed or provision of the Ordinance or any other law applicable to the Issue which comes to its knowledge;
- (xiv) ensure that the Commission is promptly informed about any action, legal proceeding etc, initiated against it in respect of any material breach or non-compliance by it of any law, rules or regulations;
- (xv) file yearly report with the Commission containing clause-wise status of the compliance with the provisions of regulation 9.
- (xvi) comply with the code of conduct prescribed in **Schedule II**;
- (xvii) call a meeting of all debt security holders on, -
 - (a) a requisition in writing signed by at least one-tenth of the debt security holders in value for the time being outstanding; and
 - (b) the happening of any event, which pursuant to the Trust Deed constitutes a default by the issuer or which in the opinion of the Debt Securities Trustee adversely affects the interest of the debt security holders.
- (xviii) ensure that the assets of the Issuer backing the debt security are maintained and sufficient to discharge its obligations as the issuer.
- (xix) not relinquish as Debt Securities Trustee to an Issue until another Debt Securities Trustee is appointed in its place;
- (xx) within four months of the close of its financial year file its audited annual accounts with the Commission; and
- (xxi) as and when required by the Commission submit any document or information to the Commission.

10. Maintenance of books and records by Debt Securities Trustee. — (1) A Debt Securities Trustee shall properly maintain the following record in respect of each Issue:

- (a) all contracts relating to the Issue to which it is acting as a Debt Securities Trustee including but not limited to the Trust Deed, letter of hypothecation, memorandum confirming constructive deposit of title deed and the charge registration certificate, etc;
- (b) statements relating to profit payment and principal redemption;

- (c) all documents relating to compliance with the covenants of the Trust Deed and enforcement of security, where applicable;
 - (d) investors' complaints and subsequent correspondence; and
 - (e) such other records as may be specified by the Commission from time to time.
- (2) The Debt Securities Trustee shall ensure that the record referred to in sub-regulation (1) is maintained and preserved in good order for a period of at least ten years from the date of complete redemption of the Issue.
- (3) The Debt Securities Trustee shall,-
- (a) ensure that the record is kept at such a place and maintained in such a manner that the Commission or any person appointed by it has easy access to it; and
 - (b) establish and follow record retention policies which shall ensure that all relevant legal and regulatory requirements are complied with.

11. Appointment of Compliance Officer.— Every Debt Securities Trustee shall designate a compliance officer who shall be responsible for, -

- (a) monitoring compliance with the terms of the Trust Deed;
- (b) inform Debt Securities Trustee of redressal of investors' grievances and complaints; and
- (c) inform the Commission immediately if the Debt Securities Trustee ceases to fulfill any of the requirements of these Regulations.

CHAPTER IV

DISCIPLINARY PROCEEDINGS

12. Restrictions/or Suspension of Registration. — (1) Where a Debt Securities Trustee contravenes or fails to comply with any provision of these Regulations or fails to fulfill its obligations under the Trust Deed or is not in compliance with conditions of registration or any directive, circular or order issued by the Commission, the Commission may after providing a reasonable opportunity of representation to the Debt Securities Trustee impose:

- (a) restriction on its activities as Debt Securities Trustee or suspend its registration; and/or

(b) a penalty provided under sub-section (2) of Section 506A of the Ordinance.

(2) A Debt Securities Trustee whose registration has been suspended shall not act as a Debt Securities Trustee for any new Issue during the period of suspension and remove the cause of suspension within a period of one hundred and twenty days from the receipt of the suspension order or such earlier period as provided through the order of suspension.

(3) The Commission while suspending the registration of a Debt Securities Trustee may impose such conditions as it deems appropriate.

13. Cancellation of Registration. – (1) The Commission, after providing a reasonable opportunity of representation to the Debt Securities Trustee, may cancel the registration of a Debt Securities Trustee if,-

- (i) in the opinion of the Commission the Debt Securities Trustee has been in violation of these Regulations or the Trust Deed or restriction imposed under sub-regulation (1) of regulation 12 or failed to discharge its obligation under these Regulations or the Trust Deed or failed to comply with the provisions of the Code of Conduct provided in **Schedule II**;
- (ii) it is found guilty of fraud or any criminal offence; and
- (iii) its registration has been suspended and the cause of suspension has not been removed within one hundred and twenty days from the receipt of the suspension order or such earlier period as provided through the order of suspension.

(2) The registration of a Debt Securities Trustee shall stand automatically cancelled if such Debt Securities Trustee,-

- (i) is declared insolvent by a Court;
- (ii) is wound up by an order passed by a Court, or
- (iii) ceases to hold valid license/registration as a Schedule Bank, DFI or Investment Finance Company.

(3) Notwithstanding anything contained in sub-regulation (1), where the Commission is satisfied that a delay in the cancellation of registration of the Debt Securities Trustee will be detrimental to the interest of investors or the public in general or the capital market, the Commission may immediately cancel the registration of the Debt Securities Trustee till the time an opportunity of hearing is provided to the Debt Securities Trustee and a final order is passed under sub-regulation (1):

Provided that where the Commission cancels the registration under sub-regulation (3), the opportunity of hearing and final order must be passed within thirty days of the order under sub-regulation (3).

(4) Upon the cancellation of the registration, the Debt Securities Trustee shall with immediate effect cease its business as a Debt Securities Trustee and transfer all the necessary record to other Debt Securities Trustee appointed by the issuer for the purpose;

14. Dissemination of information of suspension or cancellation of registration.— (1) The Commission may, for information of the stakeholders, publish press release of its order of suspension or cancellation of registration of a Debt Securities Trustee, as the case may be, in newspapers of wide circulation in Pakistan.

(2) The cancellation of registration of the Debt Securities Trustee and appointment of a new Debt Securities Trustee shall be communicated by the issuer to all the debt security holders through registered post or courier service and shall be disseminated through English and an Urdu newspaper, having wide circulation in Pakistan.

**APPLICATION FOR GRANT OF
CERTIFICATE OF REGISTRATION AS DEBT SECURITIES TRUSTEE**

(Please carefully read the instructions annexed to this Form)

To,
The Securities and Exchange Commission of Pakistan

Pursuant to the decision of the Board of Directors of *[Name of the applicant]*..... taken in its meeting held on*[Date of Meeting]*....., we hereby apply for registration under Regulation 5(1) of the Debt Securities Trustee Regulations, 2011.

The information and documents mentioned in **Annexure “1”** are attached herewith.

Date: _____

Signature: _____

Place: _____

Name of the Chief Executive Officer, the Company Secretary or the Chief Financial Officer duly authorized by the Board of Directors through a resolution for signing and submission of this application.

1. General and business Information:

- 1.1. Brief history of the applicant containing the name of the applicant; date and place of its incorporation; date of commencement of business; length of experience as Debt Securities Trustee, if any; names of its sponsors/promoters/major shareholders; group structure, if any and status of the applicant whether Scheduled Bank, Development Finance Institution as notified by the State Bank of Pakistan or Investment Finance Company.
- 1.2. Address of the Registered Office of the applicant (postal address, postal code, telephone & fax numbers).
- 1.3. Name and designation of the compliance officer along with contact detail i.e. postal address, postal code, telephone number, fax number and e-mail address.
- 1.4. Detail of ongoing legal or regulatory proceedings, if any, initiated against the applicant or any of its directors, shareholders, management by the Commission or any other regulatory authority.
- 1.5. Detail of penal or regulatory action(s), if any, taken against the applicant during the last three years by the Commission or any other regulatory authority.
- 1.6. In case any associated company of the applicant is already registered under these Regulations, the following details shall be provided:
 - i) Name of such associated company;
 - ii) Detail of warning notices, if any, issued to such associated company by the Commission during the last three years;
 - iii) Detail of ongoing legal proceedings, if any, initiated against such associated company or any of its directors, shareholders, management, by the Commission; and
 - iv) Penal action, if any, taken against such associated company by the Commission during the last three years.

2. Other Information:

- 2.1 Detail of pending disputes:

Nature of dispute	Name of the party	Name & Place of Court / Tribunal where dispute is pending	Amount Involved	Date of last hearing	Decision taken in the last hearing

- 2.2 List of financial or criminal offenses which have been alleged against the applicant or any of its sponsors, directors or employees during the last three years.
- 2.3 Procedures for redressal of complaints, if any, lodged by the debt security holders.
- 2.4 Any other information considered relevant to the business of the applicant as Debt Securities Trustee.
- 2.5 Any significant awards or recognition.

3. List of documents to be provided along with application:

- 3.1 copy of Memorandum & Articles of Association of the applicant, certificate of incorporation and certificate of commencement of business
- 3.2 copy of Form 3, 27, 28 and 29 of the applicant duly certified from the CRO concerned.
- 3.3 audited accounts of the applicant for the last three years and latest half yearly and quarterly accounts.
- 3.4 profile of Chief Executive Officer, Chief Financial Officer, Company Secretary, Compliance Officer, Directors, Sponsors and majority shareholders of the applicant [Name, Qualification, Experience and Date of Appointment. Directorship in other companies, Name(s) of such other companies and Date of Appointment as director in such other companies].
- 3.5 date wise break up of Issues in which the applicant acted as Debt Securities Trustee during the last three years. The statement should also contain size of each Issue.
- 3.6 list of Issues, if any, in which the applicant has enforced security or taken any other remedial action for safeguarding the interest of its debt security holders.
- 3.7 an Affidavit as specified in **Annexure “2”** signed by the Chief Executive or any director of the applicant authorized by the Board of Directors to do so through resolution passed in its meeting.
- 3.8 quantum of minimum capital or equity, as the case may be, required under the respective statute to be maintained.
- 3.9 any other information/document as required by the Commission.

****Instructions:***

- (i) The applicant must submit application for registration under Regulation 5 on this form duly filled in and signed, together with supporting documents to the Securities and Exchange Commission of Pakistan.
- (ii) All columns of the application form should be filled in. In case a column is not relevant or not applicable, the same should also be filled in as “Not Applicable” or “Not Relevant”.
- (iii) Information, which needs to be supplied in more details may be provided on separate sheet(s) and attached to the application.

AFFIDAVIT
(On Stamp Paper of appropriate value)
(Clause 3.7 of Annexure-1)

I, _____ son/daughter/wife of _____ adult, resident of _____ and holding CNIC/Passport No. _____ do hereby state on solemn affirmation as under:-

1. That I am the chief executive/director of(name of the applicant) and as such I am well conversant with the facts deposed to below.
2. That the statements made and the information and documents provided along with the application for registration as a Debt Securities Trustee under the Debt Securities Trustee Regulations, 2011 are correct and there are no facts which have been concealed.
3. That the Securities Exchange Commission of Pakistan will be notified of any change in the information provided to it along with the application for registration under Regulation 5 of the Debt Securities Trustee Regulations, 2011 during the period the applications for registration is being considered and after the grant of registration.
4. That all the documents provided to Securities Exchange Commission of Pakistan are true copies of the originals.

That I do hereby verify that the statements made above are correct to the best of my knowledge and belief and nothing has been concealed therein.

DEPONENT

Signature _____
(Name and Seal)

The Deponent is identified by me

Signature _____
ADVOCATE
(Name and Seal)

Solemnly affirmed before me on this _____ day of _____ at _____ by the Deponent above named who is identified to me by _____, Advocate.

Signature _____
**OATH COMMISSIONER FOR
TAKING AFFIDAVIT**
(Name and Seal)

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

CERTIFICATE OF REGISTRATION TO ACT AS DEBT SECURITIES TRUSTEE

Islamabad, the (*date*).....

Registration No.

1. The Securities and Exchange Commission of Pakistan having considered the application for registration as a Debt Securities Trustee under Regulations 5(1) of the Debt Securities Trustee Regulations, 2011 (the Regulations) by [*Name of the applicant*] and being satisfied that the said [*Name of the applicant*] is eligible for registration and that it would be in the interest of the securities market so to do hereby grants Certificate of Registration, in exercise of the powers conferred under Regulation 6(2) of the Regulations to [*Name of the applicant*] as a Debt Securities Trustee to carry out the activities as specified in the Regulations subject to the condition that [*Name of the applicant*] shall comply with all the provisions of the Regulations and to any other condition that may be imposed hereafter.

2. Unless cancelled or suspended this certificate of registration is valid for a period of three years from the date of its issuance or the existence of [*Name of the applicant*], whichever is earlier provided that it remains eligible under the Regulations for registration as a Debt Securities Trustee.

For and on behalf of the
Securities and Exchange Commission of Pakistan
Authorized Signatory

**APPLICATION FOR GRANT OF
RENEWAL OF CERTIFICATE OF REGISTRATION AS DEBT SECURITIES TRUSTEE**

(Please carefully read the instructions annexed to this Form)

To,
The Securities and Exchange Commission of Pakistan

Pursuant to the decision of the Board of Directors of *[Name of the applicant]*..... taken in its meeting held on*[Date of Meeting]*....., we hereby apply for renewal of registration as a Debt Securities Trustee under Regulation 7(1) of the Debt Securities Trustee Regulations, 2011. The information and documents mentioned in **Annexure “3”** are attached herewith.

Date: _____

Signature: _____

Place: _____

Name of the Chief Executive Officer, the Company Secretary or the Chief Financial Officer duly authorized by the BoD through a resolution for signing and submission of this application.

The following details shall be provided by a Debt Securities Trustee along with the relevant supporting documents: -

1. Detail of non-compliance, if any, by the Debt Securities Trustee with any provision of the Debt Securities Trustee Regulations, 2011 and reasons thereof.
2. Detail of non-compliance, if any, by the Debt Securities Trustee with any provision of any Trust Deed to which it is a party and reasons thereof.
3. Detail of the Issue(s) of securities for which the Debt Securities Trustee remained engaged during the last one year.
4. Detail of legal proceedings initiated against the Debt Securities Trustee and penal actions taken against it by the Securities & Exchange Commission of Pakistan or any other regulatory authority during the last one year.
5. Detail of changes, if any, in the status and constitution of the Debt Securities Trustee.
6. Detail of complaints relating to the Issue of debt securities received in the capacity as Debt Securities Trustee during the last one year and their status.
7. Detail of default or delay in profit payment or redemption, if any, by the issuer including the following:
 - a) the action taken by the Debt Securities Trustee to safeguard the interest of debt security holders;
 - b) mode of enforcement of security; and
 - c) compensation provided to debt security holders.
8. Audited annual accounts for the last financial year and latest half yearly and quarterly accounts.

For and on behalf of (*Name of the applicant*)....

Date: _____

Signature: _____

Place: _____

Name of the Chief Executive Officer or any director of the applicant authorized by BoD to submit the above-mentioned information.

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

**CERTIFICATE OF RENEWAL OF
REGISTRATION AS DEBT SECURITIES TRUSTEE**

Islamabad, the (*date*).....

Registration No.

1. The Securities and Exchange Commission of Pakistan having considered the application of the Debt Securities Trustee for renewal of its registration under Regulations 7(2) of the Debt Securities Trustee Regulations, 2011 by [*Name of the applicant*] and being satisfied that the said [*Name of the applicant*] is eligible for renewal of registration and that it would be in the interest of the securities market so to do hereby grants renewal of Certificate of Registration, in exercise of the powers conferred under Regulation 7(2) of the Regulations to [*Name of the applicant*] as a Debt Securities Trustee to carry out the activities as specified in the Regulations subject to the condition that [*Name of the applicant*] shall comply with all the provisions of the Regulations and to any other condition that may be imposed hereafter.

2. Unless cancelled or suspended this renewal of the certificate of registration is valid for a period of one year from the date of the issuance of this certificate of renewal or the existence of [*Name of the applicant*], whichever is earlier provided that it remains eligible under the Regulations for registration as a Debt Securities Trustee.

For and on behalf of the
Securities and Exchange Commission of Pakistan
Authorized Signatory

SCHEDULE I

CONTENTS OF TRUST DEED

[see regulation 9(ii)]

The Trust Deed should contain all the necessary terms and conditions including the following:

1. The Issuer

All obligations and responsibilities of the issuer under the Regulations, the Ordinance, the Act and any other applicable law or directions by the Commission including the following:

- i) its obligation for maintaining proper record of its books of accounts and keeping it open for inspection by the Debt Securities Trustee;
- ii) its obligations for maintaining proper register of debt security holders with their addresses, record of subsequent transfers and changes of ownership;
- iii) its obligations for facilitating the Debt Securities Trustee to enter its premises and inspection of the charged assets;
- iv) its obligations for intimating the Debt Securities Trustee of all orders, directions, notices of the courts of law affecting or likely to affect the charged assets or interest of the debt security holders;
- v) its obligations for submitting any document or information including copies of financial reports; auditor's certificate on maintaining minimum redemption reserve fund, if required; report of redemption of debt securities; report on conversion of debt securities, if they are convertible; contracts relating to the Issue and the assets backing the debt security etc. as and when required by the Debt Securities Trustee;
- vi) its obligations for keeping the charged assets, if any, in proper condition;
- vii) its obligation to pay the profit and the redemption amount;
- viii) its obligations for reporting to Debt Securities Trustee before declaration or distribution of dividend;
- ix) its obligations for reporting to Debt Securities Trustee before any change in the nature and conduct of business of the issuer;
- x) its obligations for reporting periodical report to the Debt Securities Trustees containing at least the following:
 - (a) register of debt security holders;
 - (b) number and nature of grievances received by the issuer from debt security holders and status of resolution thereof;
 - (c) amount of markup due but unpaid and reasons for non-payment thereof;
 - (d) a declaration confirming that its assets which are available by way of security are sufficient to discharge the claims of the debt security holders as and when they become due.
- (xi) its obligations for submission of its annual audited accounts to the Trustee within thirty (30) days of publication of the same;
- (xii) its obligations for conduct and manage its business affairs with due care, diligence and efficiency in accordance with sound financial practices;

- (xiii) its obligations to inform the Debt Securities Trustee about the material change in its shareholding structure and the Board of Directors;
- (xiv) its obligations to provide the Debt Securities Trustee information about its financial condition, business and operations as and when requested by the Debt Securities Trustee;
- (xv) its obligations to furnish to the Debt Securities Trustee copies of all documents, reports, notices, circulars and particulars which the issuer provides to its creditors;
- (xvi) its obligations to immediately inform the Debt Securities Trustee of the occurrence of any event of default;
- (xvii) its obligations that until all the amounts payable by the issuer in relation to the debt security have been paid in full to the satisfaction of the Debt Securities Trustee, the issuer shall not without prior written consent of the Trustee;
 - (a) sell, transfer or otherwise dispose of, except in the ordinary course of business, any of the charged assets or more than 20 per cent of its undertaking or assets or permit any merger, consolidation, dismantling or reorganization;
 - (b) create or permit to subsist any *pari passu* or superior security interest over the charged assets or any portion thereof except in accordance with inter-creditor agreement to which the Debt Securities Trustee is a party;
 - (c) demolish or remove any part of the buildings which are part of the secured assets or the fixtures and fittings annexed thereto except in the ordinary course of repair, maintenance, replacement or improvement;
 - (d) change its Memorandum or Article of Association, in a manner that may materially and adversely affect its ability to perform its obligations in respect of the debt security Issue;
 - (e) take any action which is likely to results in a materially adverse change; and
 - (f) declare or pay any dividends or profits after the occurrence of any event of defaults.
- (xviii) it obligation to ensure that the assets of the Issuer backing the debt security are maintained and sufficient to discharge its obligations as the issuer.

2. Purpose and salient features of the Issue

- (a) Purpose of the Issue, utilization of the proceeds thereof and Issue size.
- (b) tenure of the Issue.
- (c) interest/coupon rate.
- (d) redemption schedule.
- (e) options like call option, put option and conversion option, if any.
- (f) debt equity ratio.
- (g) debt service coverage ratio, if applicable.

3. Details of the assets backing the debt security

- (a) Nature of the assets.
- (b) Book value of the assets as per the latest audited accounts of the issuer.
- (c) Nature of the existing charge(s) viz floating, exclusive, *pari passu*, ranking etc on the charged assets and total amount of such charges.
- (d) Nature of charge(s) established in favor of the Debt Securities Trustee.
- (e) Circumstances under which security becomes enforceable.

- (f) Restriction on the issuer with respect to creation of further charges or encumbrances of the assets without the consent of the Debt Securities Trustee.
- (g) Minimum amount of the security to be maintained at all times during the tenure of the debt security.
- (h) Procedure for successive valuation of the assets backing the debt security.
- (i) Procedure for inspection of the charged assets and books of account by the Debt Securities Trustee or any person or persons authorized by it.
- (j) Mechanism for preservation of the assets backing the debt security.
- (k) Circumstances under which the security may be disposed of or leased out with the approval of the Debt Securities Trustee.

4. Procedure for Enforcement of Security

The procedure for enforcement of security in case of default by the issuer should be provided in detail.

5. Representation and Warranties

Details regarding the issuer representation and warranties regarding any issue or creation of trust or the clause that execution of this declaration shall not contravene the Memorandum and Articles of Association of the Issuer, any agreement which constitute legal and binding obligation of the issuer etc.

6. Details of the agreements executed with its creditors and covenants thereof

7. Events of Default

All the events, which if occurred shall require the Debt Securities Trustee to initiate the actions, proceedings including enforceability of the security for safeguarding interest of the debt security holders, should be defined.

8. Rights of Debt Securities Trustee in case of issuer's default

- (i) right of the Debt Securities Trustee to inspect any time any document of the issuer relating to the Issue including the books of accounts, contracts relating to assets backing the debt security, the register of debt security holders and shareholders etc. and to take copies and extracts thereof.
- (ii) a statement whether, in case of default, the Debt Securities Trustee has the right to appoint a nominee director on the board of the issuer or not.
- (iii) right of the Debt Securities Trustee to call meeting of the Debt Securities Trustees, the events under which such meeting may be called and minimum quorum for the meeting of debt security holders.
- (iv) right of the Debt Securities Trustee to approach a court of competent jurisdiction in the event of any default by the issuer and its failure to comply with the covenants of the Trust Deed.

9. Rights of the Debt Security holders

- (i) rights of the debt security holders to call meeting;
- (ii) right to vote at the meeting of the debt security holders;
- (iii) in the event the Trustee, upon receiving instructions from the debt security holders in accordance with the provisions of the Trust Deed, refuses or fails to act in accordance with such instructions, then any of the debt security holders, holding such number of debt securities as specified in the Trust Deed, may, on giving the Trustee a notice in writing to their intention to initiate proceedings against the issuer;
- (iv) rights of the debt security holders to replace the Debt Securities Trustee if it contravenes any of its obligations under the Trust Deed and procedure for such replacement.
- (v) right of the debt security holders to replace the Debt Securities Trustee if it contravenes any provision of the Regulations or the Ordinance or the Act.

10. Duties of Debt Securities Trustee

All obligations and duties of the Debt Securities Trustee under the Regulations, the Ordinance, the Act and any other applicable law including the following:

- (i) its obligation to regularly monitor payment of profit to the debt security holders and redemption of the debt security and ensure that it is according to the redemption schedule provided to the debt security holders.
- (ii) its obligation in case of delay or default in payment of profit and redemption of principal amount to the debt security holders.
- (iii) compensation of the debt security holders for the losses suffered by them due to any breach of obligations.
- (iv) its obligations towards regularly monitoring compliance of the issuer with all the covenants of the Trust Deed.
- (v) its obligations of immediate reporting to the debt security holders about actual or potential breaches of it's or the issuer's obligations along with remedial steps taken or to be taken.
- (vi) its obligations to initiate legal proceedings against the issuer where the issuers refuses or fails to fulfill its obligations under the Trust Deed.
- (vii) regularly monitor the quantum of security, where the Issue is secured, and ascertain whether the security of the issuer backing the debt security is sufficient to discharge the claims of debt security holders as and when they become due;
- (viii) enforce security, where necessary, in the interest of the debt security holders;

11. Removal and Resignation of the Trustee

- (i) Provide in details the instances and procedure for the retirement, removal and resignation of the Trustee including appointment of new trustee.
- (ii) Procedure for modifications/rectification in the Trust Deed.
- (iii) clause prohibiting any unilateral modification/amendment by either party to the trust deed.

12. Miscellaneous

- (a) Provisions for redressal of grievances of debt security holders.
- (b) Provision that the Debt Securities Trustee shall not relinquish from its assignment unless another Debt Securities Trustee is appointed.
- (c) fee or commission of Debt Securities Trustees.

Note:

- (i) The arrangement for rendering services as Debt Securities Trustee does not absolve the issuer of the obligations and responsibilities placed on it under the Ordinance, the Act, the Securities and Exchange Ordinance, 1969 and these Regulations.
- (ii) The Debt Securities Trustee may incorporate additional clauses, provided that the additional clauses do not dilute or contravene the provisions of the above clauses.

SCHEDULE II
CODE OF CONDUCT
[see regulation 9(xvi)]

The Debt Securities Trustee shall follow the following code of conduct:

1. The Debt Securities Trustee shall ensure that
 - (i) any change in registration status which may adversely affect the interest of the debt security holders is promptly notified to the issuer, the Commission and in case of listed debt securities to the stock exchange concerned; and
 - (ii) where the Debt Securities Trustee cease to act as a trustee for the Issue, its business relating to the Issue is transferred to another trustee in consultation with the issuer.
2. A Debt Securities Trustee shall take all reasonable steps to establish the true and full identity of the issuers and maintain proper record of the charged assets, if any, and the financial and operating position of the issuer.
3. A Debt Securities Trustee shall not discriminate among the issuers. A Debt Securities Trustee shall share information available to it with credit rating agencies regarding the.
4. A Debt Securities Trustee shall provide the issuer and debt security holders with adequate and appropriate information about its trusteeship business, including contact details, services available to issuers, and the identity and status of employees and others acting on its behalf with whom the issuer may have to enter contacts.
5. A Debt Securities Trustee shall not indulge in any unfair competition, which is likely to harm the interests of other Debt Securities Trustees or debt security holders or is likely to place such other Debt Securities Trustees in a disadvantageous position while competing for or executing any assignment nor shall it attract the clients of another Debt Securities Trustee on assurance of lower fees.
6. A Debt Securities Trustee shall ensure that the information shared with the debt security holders through correspondences or other means is correct, adequate, comprehensive and not misleading and is shared timely.
7. A Debt Securities Trustee shall ensure that its directors or managers having the management of the whole or substantially the whole of affairs of the trusteeship business, shall not either through its account or their respective accounts or through their associates or family members, relatives or friends indulge in any insider trading.
8. A Debt Securities Trustee or any of its directors, employees, officers, etc. shall not divulge to anybody either orally or in writing, directly or indirectly, any confidential information about its clients which has come to its knowledge, without taking prior permission of its clients, except where such disclosures are required to be made in compliance with any law.
9. A Debt Securities Trustee shall ensure that:
 - (i) inquiries from debt security holders are adequately dealt with; and
 - (ii) grievances of debt security holders are redressed in a timely and appropriate manner.

10. A Debt Securities Trustee or any of its directors, employees, officers, etc. shall not render, directly or indirectly, any investment advice about any security in the media, whether real-time or non-real-time unless a disclosure of interest including long or short position in the said security has been made, while rendering such advice.
11. A Debt Securities Trustee shall be responsible for the acts or omissions of its employees and agents in respect to the conduct of its business.
12. Debt Securities Trustee shall provide adequate freedom and powers to its compliance officer for the effective discharge of its duties.
13. A Debt Securities Trustee shall ensure that good corporate policies and corporate governance is in place.
14. A Debt Securities Trustee shall not be party to,-
 - (i) Manipulation or price rigging;
 - (ii) Creation of false market; or
 - (iii) Passing of unpublished or non-public price sensitive information in respect of securities which are listed or proposed to be listed in any stock exchange to any person or intermediary.
15. A Debt Securities Trustee shall call for periodical reports regarding profit payment and redemption of the debt security from the issuer.
16. A Debt Securities Trustee shall inspect books of accounts, records, registers of the issuer and the trust property to the extent necessary for discharging its obligations under the issue of debt security.
17. A Debt Securities Trustee shall maintain high standard of integrity and fairness in discharging its functions and fulfill its obligations in a fair, efficient, transparent and ethical manner.

No. SMD/Misc/(Prosp)19/2003

(Abdul Rehman Qureshi)
Advisor/Secretary