

GOVERNMENT OF PAKISTAN
SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

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Islamabad, the 23rd June, 2022

NOTIFICATION

S.R.O. 869 (I)/2022.— The draft Issuance of Convertible Debt Securities through Right Offer Regulations, 2022 proposed to be made by Securities and Exchange Commission of Pakistan (Commission) in exercise of powers conferred under sections 512 , 63 and 66 of the Companies Act, 2017 read with section 169 of the Securities Act, 2015, are hereby published for information of all the persons likely to be affected thereby and notice is hereby given that objections or suggestions, if any, received within fourteen days from the date of its placement on the website of the Commission, shall be taken into consideration, namely:-

DRAFT REGULATIONS

CHAPTER – I

PRELIMINARY

1. Short title, commencement and applicability. – (1) These Regulations shall be called the Issuance of Convertible Debt Securities through Right Offer Regulations, 2022.

(2) They shall come into force at once.

(3) They shall apply to listed companies proposing to issue convertible debt securities through right offer.

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

(i) “Act” means the Securities Act, 2015 (III of 2015);

(ii) “Companies Act” means the Companies Act, 2017 (XIX of 2017);

(iii) “convertible debt security” means a debt security including sukuk that yields interest/profit payments and can be converted into a predetermined number of equity shares at future point in time;

(iv) “listed company” means a public limited company whose shares are listed at Securities Exchange;

(v) “right offer of convertible debt securities” involves offering of convertible debt securities by company to existing shareholders in a particular ratio to the number of shares/shareholdings held as on specific cut-off date, for subscription;

(vi) “Regulations” means the Issuance of Convertible Debt Securities through Right Offer Regulations, 2022.

(2) Words and expressions used but not defined in these Regulations shall have the same meaning as are assigned to them in the Act, the Companies Act, or the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997)

CHAPTER – II

3. Conditions for Issuance of Convertible Debt Securities through Right Offer. -

(1) A listed company may issue convertible debt securities, by way of right, subject to following conditions namely. –

- (i). the Company has obtained approval from its board of directors to issue convertible debt securities through right offer;
- (ii). approval of the board shall be communicated on the same day to the Commission and to the securities exchange for public dissemination;
- (iii). right offer shall be strictly made in proportion to the number of shares held at a specific cut-off date;
- (iv). right offer shall be cancelled, if 80% of the right is not subscribed and company does not have any alternate financing arrangement to cover the funding gap;
- (v). the book closure for the issue shall be made within thirty days from the date of the board's resolution;
- (vi). right offer for convertible debt securities shall be accompanied by letter of offer;
- (vii). within 10 days after the board resolution; letter of offer containing minimum information as specified in **Schedule-I** shall be placed on securities exchange website for 5 working day for public comments and comments of securities exchange and the Commission;
- (viii). the company shall address all comments and make necessary disclosures, if any in the letter of offer to the satisfaction of the securities exchange;
- (ix). the company shall disclose in tabular form on securities exchange and company's website all the comments received along with the explanations as to how they are addressed;
- (x). within seven days after closure of comments period, revised letter of offer, addressing comments and incorporating book closure dates and relevant right issuance timelines shall be placed on website of the securities exchange;
- (xi). within seven days of book closure, letter of offer shall be dispatched or credited. Letter of offer shall be sent to all members along with copy of the extract of the resolution of the board's meeting approving the right offer;
- (xii). letter of offer shall state number of convertible debt securities offered and limiting a time not less than fifteen days and not exceeding thirty days from the date of offer, if not accepted shall be deemed to have declined;
- (xiii). any member, not interested to subscribe may exercise the right to renounce the convertible debt securities offered to him/her in favour of any other person by trading letter of offer through securities exchange, before the date of expiry stated in the letter of offer;
- (xiv). letter of offer shall be tradeable in line with mechanics specified by the securities exchange;
- (xv). in case of under subscription of right offer, the board of directors shall issue remaining securities i.e. up to 20% of the issue size in such manner as they deem fit within thirty days from the close of offer or with in such extended time not exceeding thirty days.

4. Additional Requirements for Issuance of Convertible Debt Securities through Right Offer. – (1) For issuance of convertible debt securities, following additional requirements shall also be complied with. -

- (i) the company shall structure the convertible debt security either through execution of issuance agreement or trust deed as per Structuring of Debt Securities Regulations, 2020
- (ii) the company shall appoint investment agent or debt securities trustee depending upon the structure of debt security;
- (iii) the company shall obtain prior requisite approval under section 83(1)(b) of the Companies Act for further issue of share capital in relation to conversion of convertible debt securities to share capital.

5. Reporting. - (1) The Company shall, within 15 working days from the date of issuance of convertible debt securities, submit a report to the Commission clearly indicating, date of board resolution, book closure date, content of letter of offer, salient features of the issue, purpose of issue, proceed utilization, subscription results, number of securities renounced and way forward for issuance of unsubscribed portion.

(2) After issuance of convertible debt securities, the company shall report detailed break-up of utilization of the proceeds and implementation status of project/commitment made in the letter of offer in its post issue quarterly/half-yearly and annual accounts till complete utilization, as per format given below:-

Commitment made in the letter of offer	Start date (disclosed in the letter of offer)	Completion date (disclosed in the letter of offer)	Current status	Rationale for delay, if any.
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6. Penalty. - Any violation or contravention of these regulations shall be punishable under sub-section (2) of section 512 of the Companies Act, 2017 and section 159 of the Securities Act, 2015

Schedule I

Minimum Content of Letter of Offer

Minimum Content of Letter of Offer/Term Sheet for Issuance	
Particulars	Relevant Details
A. <u>Information pertaining to company offering convertible debt securities through right.</u>	
a) <u>Company Profile and History:</u>	
(i). Name of Company.	
(ii). Incorporation date.	
(iii). Date of commencement of business.	
(iv). Corporate Universal Identification Number (CUIN)	
(v). Business model of Company	
(vi). Company's products.	
(vii). Website address and web-link where latest available financial statements are placed.	

(viii). Contact details for shareholder facilitation (in form of postal address, phone number or email address)	
b) <u>Profile of Management and Sponsors:</u>	
(i). Profile of directors (names, executive/ nonexecutive/ independent/nominee director and tenure of directorship held)	
(ii). Other directorships held (provide names of the company(ies))	
(iii). Name of Sponsors.	
c) Share capital of the Company and existing shareholding pattern.	
d) Name of the statutory auditor(s)	
e) Name of holding company, if any.	
f) Name of associated companies.	
g) Financial highlights of company for preceding three years including revenue/ sales, gross profit, profit before interest and tax, profit after tax, accumulated profit or (loss), total assets, total liabilities, net equity, break up vale per share, latest market price per share, total liabilities, debt instruments issued, Interest coverage ratio, capital ratios, earnings per share, dividend, if any, bonus issue, if any.	
h) Financial highlights for preceding three years of consolidated financial statements same as (f) above, if any.	
i) Details of debt instruments issued in previous three years and their redemption status.	
j) Utilization of funds obtained through issuance of debt instruments.	
B. <u>Details of Right Issue:</u>	
a) Issue price.	
b) Cut-off date.	
c) Profit rate.	
d) Ratio in which convertible debt securities are offered.	
e) Conversion mechanism.	
f) Conversion price.	
g) Credit rating of instrument, if any.	
h) Salient features of the issue.	
i) Type of security.	
j) Put option or call option (if any)	
k) Purpose of the issue and detailed utilization of proceeds.	
l) Time line relating to utilization of proceeds.	
m) Date of meeting of board of directors (BOD) wherein the right issue was approved	
n) Names of directors attended the BOD meeting.	
o) Total expenses to the issue; bankers' commission and others, if any.	
p) Alternate funding arrangement, if any.	
C. <u>Information regarding risk factors and mitigating factors as applicable:</u>	
a) Description of major risks and company's efforts to mitigate them:	
i) risks relating to the project for which proceeds of the right issue are to be utilized.	
ii) risks relating to under-subscription of the right issue.	

<ul style="list-style-type: none"> iii) material contingencies. iv) material commitments. v) any adverse issue reported by the auditor in their audit reports in previous three years. 	
D. <u>Eligibility Criteria and associated matters:</u>	
a) members' eligible / entitlement of getting the Letter of Offer.	
b) Bankers to the issue.	
c) date upto which the offer, if not accepted, shall be deemed to have been declined.	
d) mode of acceptance (only through banking channel): <ul style="list-style-type: none"> i) bank account number. ii) date by which amount to be credited in bank account to constitute valid acceptance. iii) Acceptable banking instruments. 	
E. <u>Any other material information that may have direct or indirect bearing on the investment decision.</u>	

[F. No. SY/SECP/8/13]


(Bilal Rasul)
Secretary to the Commission