

Notification No. S.R.O. 257 (I) / 2002

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S.R.O. 257 (I)/2002. — The following draft of the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2002 which is proposed to be made in exercise of the powers conferred by Section 506 of the Companies Ordinance, 1984 (XLVII of 1984), read with Section 43(b) of Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997) is hereby published for the information of all persons likely to be affected thereby and notice is hereby given that the draft will be taken into consideration after fourteen days of its publication in the Official Gazette.

The Securities and Exchange Commission of Pakistan will consider any objection or suggestion, which may be received from any person in respect of the said draft before the expiry of the said period.

DRAFT NOTIFICATION

THE NON-BANKING FINANCE COMPANIES (ESTABLISHMENT AND REGULATION) RULES, 2002

CHAPTER - I

General

1. **Short title and commencement.** - (1) these rules may be called the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2002._

(2) They shall come into force at once.

2. **Definitions.** - (1) in these Rules, unless there is anything repugnant in the subject or context,-

(a) "Administrator" means a company or a person appointed by the Commission to manage the affairs of a closed-end company or venture capital funds upon cancellation of license granted to Non-Banking Finance Company (NBFC) by the Commission to operate as investment advisor or to manage venture capital funds, subject to such terms and conditions as may be deemed appropriate by the Commission;

(b) “bankers acceptance” means a draft drawn on a commercial bank or a NBFC by an individual or firm ordering the drawee bank or NBFC to pay to the order of third person a specified sum of money, either on demand or at some future specified date, and accepted by the drawee;

(c) “Certificate of Investment/Deposit” means a certificate of investment or certificate of deposit issued by a NBFC, duly licensed by the Commission to carry out/undertake leasing/investment finance services/housing finance services, and the permission to issue certificates of investment/deposit has been obtained by such NBFC from the Commission in terms of sub-rule (2) of Rule 9 of these rules;

(d) “closed-end company”, means an investment company which does not continuously offer for sale a security which entitles the holder of such security on demand to receive his proportionate share of the net assets of the mutual fund; and which maintains compliance to these Rules.

e) “close relative” includes spouse and minor children;

(f) “Commission” means the Securities and Exchange Commission of Pakistan established under Securities and Exchange Commission of Pakistan Act, 1997(XLII of 1997);

(g) “company” means a company incorporated under the Companies Ordinance, 1984 (XLVII of 1984);

(h) “connected person” in relation to a NBFC, means, __

(i) any person or company beneficially owning, directly or indirectly, ten percent or more of ordinary share capital of the NBFC or the closed-end mutual fund being managed by it, or being able to exercise, directly or indirectly, ten per cent or more of the total voting power in that NBFC or the closed-end mutual fund being managed by it;

(ii) any person or company controlled by a person who or which meets one, or both, of the descriptions given in sub-clause (i);

(iii) any member of the group of which that company forms part; or

(iv) any director or officer of that NBFC, or the closed-end mutual fund being managed by it, or of any of their connected persons as specified in sub-clauses (i), (ii) and (iii);

(i) “constitutive documents” mean the principal documents governing the formation of a collective investment scheme, and includes the trust deed of a unit trust and all material agreements;

(j) “custodian” means a banking company within the meaning of the Banking Companies Ordinance, 1962 (LVII of 1962), or a central depository company approved by the Commission, which is appointed to be a custodian under these rules;

(k) “distribution function” in relation to a NBFC duly licensed by the Commission to operate as an asset management company, means the functions with regard to-

(i) receiving application and money for units from persons;

(ii) issuing receipts in respect of the applications received in accordance with clause (i);

(iii) issuing contract notes to the applicants in accordance with the terms of the collective investment scheme; and

(iv) receiving redemption notices, transfer instructions and conversion notices from holders for immediate transmission to the management company or the scheme;

(l) "documents" include vouchers, bills, promissory notes, securities for facilities, advances and claims by or against the company and other documents supporting entries in the books of the NBFC;

(m) “Equity includes paid up share capital, reserves and unappropriated profits excluding deferred tax reserves, revaluation reserve as described in section 235 of the Ordinance and treasury stocks;

(n) "exposure " includes fund based and non-fund based facilities and equity investments;

(o) "Facility" includes an accommodation or finance under a system which is based on participation in profit and loss, mark-up or mark-down in price, hire-purchase, lease, rent-sharing, bills of exchange, promissory notes or other instruments with or without buy-back arrangement by a seller, participation term certificate, musharika or Modaraba certificate, term finance certificate or any other mode, guarantees, indemnities, letters of credit and any other obligation, whether fund based or non-fund based.

(p) "Form" means the Form annexed to the rules;

(q) "Government securities" include such types of Pakistani rupee and foreign currency obligations of the Federal Government or of a Corporation wholly owned or controlled, by the Federal Government or Provincial Government and guaranteed by the Federal Government as the Federal Government may, by notification in the Official Gazette, declare to the extent determined from time to time, to be Government securities;

(r) "lease key money" means lease security deposit;

(s) "liquid net worth" means the book value(or net worth) of a NBFC, duly licensed to operate as a investment finance company, reduced by its fixed assets and direct investment of more than 20 per cent in the paid up capital of a client enterprises or a lease or leases in respect of its assets aggregating more than 20 per cent of the total assets of the enterprise;

(t) "major shareholder" means any person holding five per cent or more of the paid-up share capital of the NBFC;

(u) "margin loan" means a loan made by a NBFC duly licensed to operate as an investment finance company to a client to partly finance investment by the client in marketable securities, which shall be held by the NBFC as collateral, the amount invested by the client being the "margin" against the loan;

(v) “net assets”, in relation to closed-end mutual fund or a collective investment scheme, means the excess of assets over liabilities of the company, such excess being computed in the manner specified hereunder:-

(i) A security listed on a stock exchange shall be valued at its last sale price on such exchange on the date as of which it is valued, or if such exchange is not open on such date, then at its last sale price on the next preceding date on which such exchange was open and if no sale is reported for such date, the security shall be valued at an amount not higher than the closing asked price nor lower than the closing bid price.

(ii) An investment purchased and awaiting payment against delivery shall be included for valuation purposes as a security held, and the cash account of the company shall be adjusted to reflect the purchase price, including brokers’ commission and other expenses incurred in the purchase thereof but not disbursed as of the valuation date.

(iii) An investment sold but not delivered pending receipt of proceeds shall be valued at the net sale price.

(iv) The value of any dividends, bonus shares, or rights which may have been declared on securities in the portfolio but not received by the company as of the close of business on the valuation date shall be included as assets of the company, if the security upon which such dividends, bonuses or rights were declared is included in the assets and is valued ex-dividend, ex-bonus or ex-rights as the case may be.

(v) Interest accrued on any interest-bearing security in the portfolio shall be included as an asset of the company if such accrued interest is not otherwise included in the valuation of the security.

(vi) Any other income accrued upto the date computation on which was made shall also be included in the assets.

(vii) All liabilities, expenses, taxes and other charges due or accrued up to the date of computation which are chargeable under these rules, other than the paid-up capital of the company, shall be deducted from the value of the assets.

(viii) The remuneration accrued upto the date of computation payable to the investment adviser for providing management and other services shall be included as an expense.

(w) "NBFC" means a Non-Banking Finance Company duly licensed by the Commission to carry out any one or all of the following functions/activities, or any other function/activity which may be specified by the Commission from time to time:-

- i) Investment Finance Services
- ii) Leasing
- iii) Housing Finance Services
- iv) Venture Capital Investment
- v) Discounting Services
- vi) Investment Advisory Services (Management Company for closed-end Mutual Funds)
- vii) Asset Management Services (Management Company for open-end Mutual Funds)
- viii) Export Finance Guarantee Services

(x) "Operating Lease" means a lease other than a finance lease.

(y) "net capital", in relation to an investment adviser, means an amount by which the current assets, namely, cash in hand or in bank, money receivable within a period of twelve months from the date of the balance sheet and such other assets, not being the value of securities referred to in sub-rule (2) of rule 5, as are so classified under generally accepted accounting principles, exceed the current liabilities, namely, money payable within a period of twelve months from the date of the balance sheet and such other liabilities as are so classified under generally accepted accounting principles;

(aa)“offering document” means documents containing information on a scheme calculated to invite offers by the public for purchase of the units in that scheme;

(bb)“Ordinance” means the Companies Ordinance, 1984 (XLVII of 1984);

(cc) "person" includes an individual, a Hindu undivided family, a firm, an association or body of individuals whether incorporated or not, a company and every other juridical person;

(dd)"records" includes ledgers day books, cash books and all other manuals or magnetic records used in the business of the NBFC;

(ee)“risk assets” mean marketable securities and other assets held by a NBFC licensed to operate as an investment finance company in the ordinary course of its business;

(ff)“scheme” means a unit trust scheme constituted by way of a trust deed which continuously offers for sale a security which entitles the holder of such security on demand to receive his proportionate share of the net assets of the security;

(gg)“Schedule” means the schedule annexed to the rules.

(hh)“Small entrepreneurs” mean individuals, firms and companies having fixed assets excluding land and building of the value of not more than twenty million rupees and includes software exporters, software houses and information technology companies.

(ii) “trust” means a trust established by a deed under the provisions of the Trusts Act, 1882 (II of 1882);

(jj) “trustee” means a company appointed as a trustee and includes a bank licensed under the Banking Companies Ordinance, 1962 (LVII of 1962), a trust company which is a subsidiary of such a bank, a banking institution incorporated outside Pakistan acceptable to the Commission and a Central Depository Company approved by the Commission;

(kk)“unlisted security” means a security not listed or quoted on a stock exchange.

(ll) "venture capital investment" means financing of any venture project by a NBFC licensed to operate as a venture capital company, through equity or other instruments whether convertible into equity or not and may include provision of managerial or technical expertise to venture projects;

(mm) "venture capital project" means a project financed by a NBFC duly licensed to operate as a venture capital company or a venture capital fund managed by it, and which is characterized as an entity which is in the start-up phase of its business/commercial operations or undergoing expansion; or engaged in a service, manufacturing or production activity based on a new process, service or technology; or located in a remote or underdeveloped area of the country.

Provided that the shares of the venture project shall not be listed on any of the stock exchanges in Pakistan at the time of investment by the Venture Capital Company or Venture Capital Fund and the project shall not engage in a business activity which is included in the Negative list mentioned below:

- i. arms and ammunitions
- ii. high explosives
- iii. radioactive substances
- iv. security printing, currency and mint
- v. manufacture of alcoholic beverages
- vi. environmentally hazardous projects
- vii. gold financing
- viii. real estate
- ix. non-banking finance companies.

(nn) Words and expressions which have been used in this notification but not defined and have been defined in the Ordinance shall have the same meaning as in the Ordinance.

3. Eligibility conditions for the establishment of a Non-Banking Finance Company:-

A NBFC may be established if each of its sponsors, proposed directors, chief executive and chairman of the Board of Directors fulfills the following terms and conditions, namely:-

- (a) he has not been associated with any illegal banking business, deposit taking or financial dealings;
- (b) he and companies in which he is a director or major shareholder, have no over-due loans or installments outstanding towards any NBFC or any banking or non-banking financial institution;
- (c) neither he nor the companies in which he is a director or major shareholder has defaulted in the payment of taxes as on the date of application;
- (d) he has not been sponsor, director or chief executive of a defaulting co-operative finance society or finance company;
- (e) he has never been convicted of fraud or breach of trust or of an offence involving moral turpitude or removed from service for misconduct;
- (f) he has neither been adjudged as insolvent nor suspended payment of his debts nor has compounded with his creditors; and
- (g) except for a nominee director, his net-worth as per wealth statements submitted with the tax authorities is not less than twice the amount to be subscribed by him personally;

4. Permission to form a non-banking finance company:-

- (1) A person desirous of forming a non-banking finance company shall make an application to the Commission as set out in Form-1 providing information, as given in Annexure thereto, along with all the relevant documents and receipt evidencing the payment of non-refundable processing fee amounting to one hundred thousand rupees.

(2) The Commission may, if it is satisfied that the persons seeking permission to form the NBFC has fulfilled the terms and conditions specified in rule 3, permit by an order in writing such person to establish a non-banking finance company.

(3) The permission granted under sub-rule (2) shall be valid for a period of six months unless extended for a maximum period of three months under special circumstances, on the application of the promoters made before the expiry of said six months.

5. Conditions for grant of license(s):-

(1) An NBFC shall make an application to the Commission for obtaining a license(s) for any or all of the activities as mentioned in clause (w) of sub-rule 1 of Rule 2 in Form-II along with a non-refundable processing fee amounting to one hundred thousand rupees for each such license.

(2) The Commission, if it is satisfied that the company has fulfilled the conditions specified in Rule 3, and the promoters thereof are persons of means and integrity having knowledge of matters which the company may have to deal with in respect of the activity/function for which the license is being sought, shall grant license(s) to such company in Form-III for any or all of the functions / activities as mentioned below subject to compliance to the following conditions, namely;

(a) it is incorporated as a public limited company under the Ordinance;

(b) it has separate tiers of minimum paid-up share capital in respect of the following functions/ activities as mentioned against each activity:

(i) Investment Finance Services Rupees one hundred million

(ii) Leasing Rupees two hundred million

(iii) Venture Capital Investment Rupees five million (for a venture

capital company); and

Rupees fifty million (for a venture

capital fund)

(iv) Discounting Services Rupees two hundred million

(v) Investment Advisory Services Rupees twenty million

(management company for a

closed end mutual fund)

(vi) Asset Management Services Rupees thirty million

(management company for an

open end mutual fund)

- (c) it has allotted at least fifteen per cent of the paid-up share capital to the promoters;
- (d) its promoters and directors have given undertaking that they shall not dispose of their shares for a minimum period of three years from the date of commencement of business except with the prior approval of the Commission;
- (e) appoints its chief executive who does not hold such office in other company;
- (f) it has given an undertaking that no change in the Memorandum of Association and in the directors shall be made without prior authorization of the Commission and that all conditions of rule 3 shall be complied with; and
- (g) it has given undertaking that the conditions of operation set out in these rules or specified by special order of Commission or any direction/guidelines prescribed by the Commission shall be duly complied.
- (h) it has furnished an undertaking, within ninety days of the grant of a

certificate of registration, that it shall furnish evidence to the satisfaction of the Commission that the personnel employed by it for executive, research or other related functions possess sufficient educational qualifications and professional experience to undertake the proposed function(s) of the NBFC;

(3) Without prejudice to the conditions under sub-rule (2) of rule 5, the Commission may while granting license impose any conditions, as it may deem necessary.

(4) The license(s) granted to the NBFC under these rules shall be valid for one year and each license shall be renewable annually on payment of a fee of twenty five thousand rupees on an application being made in Form IV.

(5) The Commission may, after making such inquiry and after obtaining such further information, as it may consider necessary, renew the license(s) of such NBFC, for one year in Form V on such conditions, as it may deem necessary

6. **Commencement of operations by non-banking finance company.-** (1) A non-banking financial company shall commence business and its operations only after it has been issued a separate license for each activity as mentioned in clause (w) of sub-rule 1 of Rule 2 and all conditions contained in Rule (5) have been complied with.

(2) Without prejudice to the terms and conditions set out in Rule 7, the Commission may while granting license, or subsequently, impose any other conditions, as it may deem necessary.

7. (1) A non-banking financial company shall:

(i) appoint its financial/chief accounting officer who is a chartered accountant or a Cost and Management Accountant or a person having Master's Degree in Commerce or Business Administration with finance specialization and senior management level

experience of at least five years in a bank or non-banking financial institution;

(ii) prepare its accounts having regard to the International Accounting Standards notified under sub-section (3) of section 234 of the Ordinance and technical releases issued by Institute of Chartered Accountants of Pakistan from time to time;

(iii) disclose all facilities exceeding twenty per cent of its equity in its accounts;

(iv) ensure, while granting any facilities, that total facilities availed by any borrower or lessee from Banks and NBFCs do not exceed ten times of the equity of the borrower or lessee and obtain copy of accounts relating to the business of each of its borrower/lessee for analysis and record in the following manner, namely :-

(a) where the exposure exceeds ten million rupees	Accounts duly audited by: (i) a practicing chartered accountant; or (ii) a practicing cost and management accountant in case of a borrower or lessee other than a public company or a private company which is a subsidiary of a public company.
(b) where exposure exceeds two million rupees but does not exceed ten million rupees.	Accounts duly signed by the borrower or lessee and counter signed by: (i) the internal auditor of the leasing company; or (ii) a chartered accountant; or (iii) a cost and management accountant in case of a borrower other than a public company or a private company which is a subsidiary of a public company.
(c) where the exposure exceeds one million rupees but does not exceed two	Accounts duly signed by the borrower or lessee

million rupees	
(d) where the exposure does not exceed one million rupees.	Such documentary evidence of the means and investment of the borrower or lessee as may be determined by the management of the NB

Explanation .- Surplus arising on revaluation of assets determined in accordance with International Accounting Standards by a firm of Chartered Accountants approved by the Commission for this purpose may be considered for the purpose of calculating the exposure limit under this rule. The surplus on revaluation of assets so determined is required to be reflected in the balance sheet of the borrower or lessee.

(v) appoint at least one of its the directors who has senior management level experience in the financial sector of at least five years ;

(vi) liabilities, excluding contingent liabilities and security deposits in respect of finance leases, for the first two years of its operations shall not exceed seven times of the equity of the NBFC. In subsequent years, the liabilities shall not exceed ten times of the equ

Provided that the aforesaid liabilities to equity ratio shall not apply to a NBFC operating solely as an asset management company, an investment advisor, or a venture capital company, or any combination thereof.

(vii) create a reserve fund to which shall be credited: -

a. an amount not less than twenty percent of its after tax profits till such time that the reserve fund equals the amount of the paid-up capital; and

b. thereafter, a sum not less than five percent of its after tax profits:

Explanation: Issuance of bonus shares may be made from the reserves available after appropriation created under clause (a) or (b) whichever may be the case and since such bonus shares will

increase the paid up capital, the NBFC shall transfer further amounts to the reserves in order to comply with condition of clause (a);

Provided that the aforesaid condition of creation of reserve fund shall not apply to a NBFC operating either solely as an asset management company, an investment advisor, or a venture capital company, or any combination of there

(viii) follow guidelines issued to safeguard NBFCs against their involvement in money laundering activities and other unlawful trades, it shall add to or reinforce the following precautions, a NBFC may have been taking in this regard; namely: -

(a) a NBFC shall make reasonable efforts to determine the true identity of the customer before extending their services and particular care shall be taken to identify ownership of all accounts and those using safe custody facilities, effective procedures shall be instituted for obtaining identification from new customers and an explicit policy shall be devised to ensure that significant business transactions are not conducted with customers who fail to provide evidence of their Identity;

(b) a NBFC shall ensure that business is conducted in conformity with high ethical standards and that rules and regulations are adhered to. It is accepted that a NBFC normally does not have effective means of knowing whether a transaction stems from or forms part of wrongful activity. Similarly, in an International context, it may be difficult to ensure that cross border transactions on behalf of customers are in compliance with the regulations of another country. Nevertheless, a NBFC shall not set out to offer services or provide active assistance in transactions

which in their opinion are associated with money derived from illegal activities; and

(c) NBFC shall establish specific procedures for ascertaining customer status and his sources of earning for monitoring of accounts on a regular basis for checking identities and bonafides of remitters and beneficiaries, for retaining internal record of transactions for future reference. The transactions, which are out of character with the normal operation of the account involving high deposits, withdrawals and transfers, shall be viewed with suspicion and property investigated.

(2) It shall not:-

(i) allow facilities to any of its directors or to individuals, firms or companies in which it or any of its director is interested as partner, director or guarantor, as the case may be, its chief executive and its major shareholders, including their spouses, parents and children or to firms and companies in which they are interested as partners, directors or major shareholders of that concern without the approval by the directors of that NBFC;

Provided that the director interested in seeking such approval shall not take part in the proceedings of the approval of the facility:

(ii) appoint or elect more than twenty-five percent of its directors from the same family, including spouse, lineal ascendants and descendants, and brothers and sisters;

(iii) purchase anything from, or sell anything to any director, officer, employee of the NBFC or from or to a person who either individually or in concert with close relatives beneficially owns ten percent or more either of the equity or other securities with voting

rights, if any, issued by such NBFC, without the prior approval in writing of the Commission.

(iv) transfer ownership of controlling shares, merge with, acquire or take-over any other company unless it has obtained the prior approval of the Commission in writing to the scheme of such merger, acquisition or take-over;

(v) make a loan or advance money to any person except in connection with the ordinary course of business of the NBFC; and

(vi) employ as a broker, directly or indirectly, any of its director, officers or employees, or a person who beneficially owns whether individually or in association with close relatives ten per cent or more either of the equity or other securities with voting rights if any, issued by the NBFC, unless it has obtained prior approval of the Commission for such appointment.

(vii) remove any of its records or documents relating to its business from Pakistan to a place outside Pakistan without the prior permission of the Commission;

(viii) make change in its chief executive and board of directors excluding director nominated by creditors, sponsoring financial institutions and insurance companies without prior approval of the Commission;

(ix) make investment in un-quoted shares of any company without the approval of the Commission

(x) offer any of its own or other securities for any consideration other than cash, nor make any loan or advance against these securities.

8. Opening of branches.-(1) A NBFC may be authorized by the Commission to open one branch to begin with.

(2) For opening more branches, the NBFC shall obtain prior permission in writing from the Commission.

CHAPTER - II

Operations

9. **Issue of certificates of investment/deposit.**-(1) A NBFC that is licensed by the Commission to undertake leasing / housing finance services and which fulfils the following conditions, may apply to the Commission for permission to issue certificates of investment (COIs), while a NBFC that is licensed by the Commission to operate as an investment finance services company and which fulfills the following conditions may apply to the Commission for permission to issue certificates of deposit (CODs), namely:-

(a) the company has been actively engaged in the leasing / investment finance services / housing finance services business for a period of two years;

(b) the corporate and fiduciary conduct of the company and its directors has been satisfactory; and

(c) the company has obtained credit rating of minimum investment grade from a credit rating agency registered with the Commission under the Securities and Exchange Ordinance, 1969 (XVII of 1969), and such credit rating shall be updated each year during the currency of the issue:

(2) If the Commission is satisfied that the NBFC fulfils the conditions of eligibility specified in sub-rule (1), it may give permission to such NBFC to issue certificates of investment/deposit.

Provided that the company shall publish the credit rating in each financial statement, advertisement and brochures. If during the tenure of

COIs/CODs, the credit rating of the company falls below the investment grade, the permission to issue COIs/ CODs would be cancelled with immediate effect and the NBFC shall neither issue any new COIs/CODs, nor roll-over the existing CoIs/ deposits upon maturity. The existing COIs /deposits shall be en- cashed as and when they become due.

Subsequently, if the company's credit rating improves to an investment grade, it may apply to the Commission for a fresh permission for issuance of COIs/CODs to be obtained under these rules.

(3) The NBFCs issuing certificates of investment/deposit shall observe the following conditions, namely:-

(a) a certificate of investment/deposit issued under these rules shall be registered in the name of the person to whom it is issued;

(b) the maturity period of certificate of investment shall not be less than three months and more than five years, while the maturity period of a certificate of deposit shall not be less than 30 days:

Provided that a certificate shall be redeemable before its maturity period subject to the terms and conditions laid out in the investment/deposit scheme;

(c) no advertisement inviting the general public for making investment in such certificates shall be published unless prior approval of the Commission to this effect has been obtained and such advertisement shall contain the credit rating;

Provided that if no decision of the Commission is conveyed to the NBFC within fifteen days of the receipt of application, the advertisement shall be deemed to have been cleared for publication; and

(d) not less than fifteen per cent of the resources raised through certificates of investment/deposit shall either be invested in registered National Investment Trust units, Government securities or listed securities subject to the conditions as prescribed in the rules made for investment of provident fund in listed securities excluding the certificates of investment/deposit held by financial institutions.

10. Margin against facilities.- (1) Following minimum margins shall be maintained against various facilities and all guarantees will be backed by 100% realizable securities -

(a) in case of performance bonds, the condition of 100% cover of realizable securities may be relaxed subject to minimum compulsory realizable security cover equivalent to 20% of the amount of the performance bond;

(b) in case of guarantees issued against mobilisation advance, the condition of 100% cover of realizable securities may be relaxed subject to the following conditions, namely :-

(i) guarantees issued should contain a clause that the mobilisation advance shall be released by the beneficiary through the guarantor leasing company only; and

(ii) at the time of issuing such a guarantee the beneficiary should sign an agreement with the NBFC that releases out of mobilisation advance would be covered by realizable assets; and

(c) in case of bid bonds issued on behalf of domestic consultancy firms bidding for international contracts where the consultancy fees are to be received in foreign exchange, the requirement of 100% cover by

realizable securities may be waived off, and this relaxation would also be available to all suppliers of goods and services bidding against international tenders.

(2) No NBFC shall provide unsecured facilities to finance subscription towards floatation of share capital of public limited companies or allow facilities against its own shares or shares of its associated undertaking and subsidiaries thereof or shares of companies not listed on the Stock Exchange and shares of listed companies obtained as collateral shall be subject to the following minimum margins, namely :-

- (a) Where the current market value does not exceed the preceding twelve months average market value, 20% of the current market value;
- (b) where current market value exceeds the preceding twelve months' average market value but does not exceed twice the preceding twelve months' average market value, 40% of the current market value; and
- (c) Where the current market value exceeds twice the preceding twelve months' average current market value, 50% of the current market value.

Provided that no NBFC company shall hold shares in any company as pledgee or mortgagee, of an amount exceeding thirty percent of its own equity or thirty per cent of the paid-up capital of that company whichever is less.

(3) Certificates of deposit of banks / COIs and COMs of NBFCs with investment grade credit rating will be subject to a margin of 20 percent. Term Finance Certificates with investment grade rating but not lower than BBB will be subject to a margin of 25 percent of the redemption value or market value whichever is less.

(4) Facilities against pledge of trading stocks shall be subject to a margin of 25%.

(i) Leasing

11. Terms and conditions for undertaking leasing business:- A non-banking financial company licensed by the Commission to undertake leasing business shall operate in accordance with the following conditions, namely:-

(1) It shall: -

(i) Invest at least 70% of its assets in the business of leasing, unless it is duly licensed by the Commission to undertake any other NBFC function in addition to leasing;

(ii) Ensure, while granting any facility exceeding one million rupees, that -

(a) Current asset to current liabilities ratio of the borrower/lessee does not fall below 1: 1 or any ratio as prescribed by the Commission from time to time. However, this condition may be relaxed in case of facilities upto two million rupees by recording reasons thereof:

Provided that current maturities of long term debt not yet due for payment may be excluded from the current liabilities for the purpose of calculating this ratio and be included in long term debt

(b) Long term debt equity ratio of the borrower/lessee does not exceed 60:40 or any other ratio as prescribed by the Commission; and

Explanation: - Subordinated loans, if any, may be considered as a part of equity for the purposes of this clause.

(c) due weightage is given to credit report relating to the borrower or lessee and his group obtained from Credit Information Bureau of the State Bank of Pakistan. If the credit reports indicate default, the further facilities shall be extended only after recording reasons to do so;

Explanation.- "Group" means a set of business companies or concerns under joint control or associated together or subsidiaries of a holding company; and

(iii) Provide facilities amounting to at least five per cent of its fund based facilities to small entrepreneurs.

(iv) Acquire and maintain membership of Leasing Association of Pakistan (LAP) and follow the code of conduct prescribed by the said Association.

(v) provide return on deposits which may be different for different volumes of deposits provided uniformity is observed within each category but deposits etc. of listed companies, financial institutions, recognized charitable trusts and statutory bodies shall, however, be exempt.

(2) It shall not -

(i) make exposure to any single person or group at any point in time for more than thirty per cent of its equity, however, in arriving at exposure per person or group under this rule the following shall be excluded, namely:-

(a) ninety per cent of certificates of deposit and certificates of investments of the lessee under lien with the NBFC;

(b) Face value of FIBs lodged by the lessee as collateral; and

(c) Pak rupee equivalent of the face value of Special US Dollar Bonds converted at official rate, lodged by the lessee as collateral.

The exposure made by any NBFC before the promulgation of these rules which is in excess of the above said exposure limit, but is within 20% of its Net Investment in leases as provided earlier, shall continue as such till the maturity/termination of the said exposure. However, any restructuring/rescheduling thereof, shall be in accordance with the above said rules.

(ii) allow unsecured facilities or facilities that are not backed by bank guarantees. Provided that the bank providing the guarantee shall have a minimum investment grade credit rating.

(iii) grant unsecured facilities to or allow facilities on the guarantees of its chief executive, directors and major shareholders including their spouses, parents, and children or to firms and companies in which they are interested as partners, directors or major shareholders of that concern;

(iv) undertake the business of real estate or provide funds to the construction companies, builders and developers and companies dealing in real estate:

Provided that a leasing company may lease machinery, equipment and vehicles to the construction companies;

(v) hold, deal, or trade in real estate except for use of leasing company itself;

(vi) engage in leasing operations pertaining to -

(a) open land;

(b) Buildings other than factory building, warehouses, hospitals, educational institutions. Office buildings and residential

undertakings located within and outside the factory premises to be used exclusively as such by a lessee, may be leased subject to a maximum of 120sq. feet per employee.

Provided that such investment does not exceed 20% of the overall lease portfolio of the company.

(c) Furniture or furnishing of any type:

Provided that the company may lease hard furniture excluding carpets and curtains upto five per cent of its portfolio;

(vii) Fix the period of lease for less than three years in the case of any finance lease agreement, except in the case of computers and other equipment used in information technology;

(viii) Allow facilities for speculative purposes;

(ii) Investment Finance Services

12. **Terms and conditions for undertaking investment finance services:-** A non-banking finance company licensed by the Commission to undertake Investment Finance Services may undertake the following activities/functions subject to the conditions mentioned below and any other conditions that may be specified by the Commission from time to time:-

(a) **Money market activities:**

(i) Issue certificates of deposit, short-term paper of its own or investments of not less than 30 days maturity subject to the conditions laid down in these Rules and any other conditions that may be specified by the Commission from time to time..

(ii) Trade in commercial paper issued by its client, Government securities, promissory notes, bankers' acceptances and other money market instruments, acting either as a broker or acting on its own account.

(iii) Assist in the issue of commercial paper, including introduction of companies to the money market, preparation of documentation, distribution and market making.

(iv) Act as broker or on its own account in the Call Money Market.

(b) Capital market activities:

(i) Trade in listed securities, both equity and non-equity instruments, acting either as broker or acting on its own account.

(ii) Provide professional analysis of securities to both institutional and individual investors.

(iii) Under-write stocks and shares, short and long term Participation Term Certificates and other negotiable term obligations of corporations and financial institutions, acting singly or jointly as manager, underwriter and distributor of such issues and taking an active part in all stages of preparation for such issues either public issues or private placement.

(iv) Float and manage both open-end and closed-end mutual funds and manage portfolios of stocks and shares, pension and provident funds, Participation Term Certificates and other negotiable and debt instruments for both individual and institutional clients on a discretionary as well as non-discretionary basis.

(v) Provide margin loans to individual and institutional investors.,

(vi). Offer cash management accounts to enable clients to shift at their discretion among various investment alternatives.

(c) Project financing activities:

(i) Make investment in projects through underwriting of public issue of stocks and shares and securities, short-term and long-term Participation Term Certificates and Term Finance Certificates of varying features.

(ii) Guarantee and counter-guarantee loans and obligations.

(d) Corporate finance services:

(i) Act as adviser and financial agent for companies in obtaining direct bank loans, syndicated loans, export credits, leases and project finances, both domestically and internationally.

(ii) Assist companies in private placement of debt and equity, domestically and abroad.

(iii) Act as adviser to companies in corporate or financial restructuring as well as in the preparation of resource mobilization plans.

(iv) Act as adviser to companies in mergers, acquisition and divestitures.

(v) Assist companies with cash management systems.

(vi) Prepare feasibility, market or industry studies for companies, both domestic and foreign.

(vii) Raise equity, such as through venture capital, for new and existing companies, by acting as financial intermediary.

(e) General

(i) Carry on any other investment finance business specifically allowed by the Commission in consultation with the State Bank with the exception of banking business and insurance business as defined in the

Banking Companies Ordinance, 1962 (LVII of 1962), and the Insurance Ordinance, 2000, respectively, and in this connection neither issue cheque-books nor to accept deposits.

(ii) Raise funds through equity, foreign debentures both short and long term, commercial paper issued abroad, sale of short and long term Participation Term Certificates and Term Finance Certificates.

Provided that the period of term finance certificates and other instruments shall not be less than 30 days.

13. **Bar on interest bearing transactions.-** A NBFC operating as an investment finance company will not transact any business on the basis of interest, except for the time being that relating to foreign loans and credits. All financial transactions will be in accordance with the Islamic modes of financing.

14. **Total investment in equities: – (Without approval of the Commission)**

(a) the total investment in equities shall not exceed the liquid net worth attributable to the investment finance services segment of the NBFC, except equities taken up as consequence of underwriting commitment in which case this limit may be exceeded by the amount of equities taken up for a period of six months; and

(b) Risk assets shall not exceed ten times of the liquid net worth attributable to the investment finance services segment of the NBFC.

15. **Maximum exposure to a single issuer or associated issuer of risk assets.-** Unless otherwise specified by the Commission, the maximum exposure of a NBFC duly licensed by the Commission to operate as an investment finance company to any single issuer, associated companies or associated issuer of risk assets, shall not exceed the following limits:-

Risk Assets: Maximum exposure to single issuer/ associated-issuer expressed as a percent of the liquid net worth attributable to the investment finance services segment of the NBFC:

Equity investment . 10%

Margin Loan. . 10%

Corporate financial paper and 35%

Short-term commercial paper

Underwriting of shares and 50%

Corporate financial paper

16. **Underwriting commitments.**-All underwriting commitments shall be fully backed by either available funds or firm stand by lines of credit or other funding arrangements.

17. **Principles for margin loans.**-The grant of margin loans to clients shall be governed by the following principles:-

(a) The aggregate of margin loans granted by a NBFC duly licensed by the Commission to operate as an investment finance company, shall not exceed 50% of the liquid net worth attributable to its investment finance services segment.

(b) The margin to be maintained by the client shall not be less than 33-1/3% of the loan amount outstanding calculated as the residual value obtained after deducting from the portfolio's market value the loan amount outstanding.

(c) Margin loans to a single client or associated clients (being the same, in the case of corporate bodies, as associated companies or associated issuers) shall not exceed 10% of the liquid net worth attributable to the investment finance services segment of the NBFC.

(d) Margin loans shall be approved by a minimum two-third majority of the Board of the NBFC and shall not be granted to any employee, officer, director, or a shareholder having a beneficial ownership including that of close relatives of more than 10% in the paid-up capital of the NBFC whether directly or indirectly (through their close relatives, companies controlled by them, affiliates, subsidiaries, or by way of acting in concert with others).

18. **Insurance coverage:** A NBFC duly licensed by the Commission to operate as an investment finance company shall obtain sufficient insurance coverage on its own or its client's benefit against any losses that may be incurred as a result of employee's fraud or gross negligence:

Provided that the Commission may, from time to time, specify the nature and extent of insurance coverage to be obtained by the NBFC.

19. **Exchange fluctuation risk:** - A NBFC duly licensed by the Commission to operate as an investment finance company shall make satisfactory arrangement to insulate itself from exchange fluctuation risks associated with foreign currency obligations and transactions.

20. **Ban on acquiring controlling interest:** - Except where it is necessary to protect its investment, a NBFC duly licensed by the Commission to operate as an investment finance company shall not seek to acquire a controlling interest in any enterprise in which it has invested or has any other interest which would give it primary responsibility for management.

21. **Managing discretionary client accounts:** - In managing discretionary client accounts, a NBFC duly licensed by the Commission to operate as an investment finance company shall-

(a) Exercise due diligence and prudence to achieve the investment objective of the discretionary clients:

(b) So organize its affairs that discretionary client accounts are managed

separately from other activities, each investment or disinvestments decision being taken independently on its own merit without consideration of any other potential or actual involvement of the NBFC; and

(c) secure no remuneration directly or indirectly resulting from or otherwise related to transactions.

Explanation: In the event of any dispute, the onus of proof shall be on the NBFC to show that it complied with the principles stated at clauses(a), (b) and (c).

(iii) Housing Finance Services

22. **Terms and conditions for undertaking housing finance services.**- A non-banking financial company licensed by the Commission to undertake Housing Finance Services may undertake the following activities/functions subject to the conditions mentioned below and any other conditions that may be specified by the Commission from time to time:-

- (i) Provide long term finance for the purpose of constructing, purchasing or making any additions, alterations or improvement to or in any property;
- (ii) Lease and rent on hire purchase basis buildings for residential and commercial purposes;
- (iii) Establish and manage housing schemes without engaging in real estate business or work as subsidiary or holding company of construction business;
- (iv) Carry out surveys and valuations of land and properties;
- (v) Arrange for the insurance of pledged property; from the present approved insurance companies;
- (vi) Manage mortgage investments as agents;
- (vii) Manage public or private sector projects, in the housing and urban

development sectors;

(viii) Make loans and advances for house building to individuals, projects and housing companies;

(ix) raise funds, in addition to share capital from;

a. commercial paper, any security and deposits of not less than thirty days maturity approved by the Commission;

b. foreign. debentures both short and long term;

c. issuance of redeemable capital (Participation Term Certificates or Term Finance Certificates, etc.);

d. lines' of credit;

e. re-discount facilities; and

f. loans on mark up to other housing finance companies.

g. make investment in government securities, approved securities and such' other approved modes as may be allowed to NBFCs from time to time.

23. Limit on individual exposures: the NBFC duly licensed by the Commission to operate as a housing finance company shall extend loans on commercial terms up to 60% of the total cost in the case of residential/ non-residential property and for additions, alterations or improvements in the existing property.

24. Rate of mark up and fees: A NBFC duly licensed by the Commission to operate as a housing finance company will charge mark-up rate on its loans in accordance with the prevailing rates provided that where disbursement is held-up by the company for any reasons, the commitment fee charged shall not exceed one percent of the un-disbursed balance. However, the NBFC shall notify the charges in a schedule of service charges

before levying such charges and furnish a copy of the same to the Commission.

25. **Insurance coverage** A NBFC duly licensed by the Commission to operate as a housing finance company shall;

- a) obtain sufficient insurance coverage on its own or on its clients' benefit against any losses that may be incurred as a result of employees' fraud or gross negligence; and
- b) Ensure that properties being financed by it are covered by adequate fire, riots, strikes, damage, terrorism and casualty insurance.

(iv) Venture Capital Investment – (A)

26. **Terms and conditions for operating as a venture capital company:-** Unless granted a general or specific waiver by the Commission, a NBFC duly licensed by the Commission to operate as a venture capital company shall:-

- (a) Not expose more than forty per cent of its equity attributable to venture capital investment segment to any single group of companies;

Explanation. - For the purposes of this rule group of companies shall mean companies controlled by the members of one family including spouse, dependent lineal ascendants and descendants and dependent brothers and sisters.

- (b) Disclose in its accounts all investments in companies and group of companies exceeding ten per cent of the paid up capital of the NBFC attributable to the venture capital investment segment;
- (c) Not accept any investment from any investor, which is less than one million rupees.

27. **Private placement.** - In addition to its paid-up capital attributable to the venture capital investment segment, a NBFC may receive monies for investment in venture

projects through private placement of such securities as may be notified by the Commission from time to time.

28. **Placement memorandum:-** A NBFC duly licensed by the Commission to operate as a venture capital company shall, before soliciting placement of its securities, file with the Commission a placement memorandum which shall inter alia give details of the terms subject to which monies are proposed to be raised from such placements.

(iv) Venture Capital Investment – (B)

29. Eligibility conditions for grant of license to a venture capital fund.-

(1) A venture capital fund shall not be granted license by the Commission unless it fulfills the following conditions, namely:-

(a) It is incorporated as a company under the Companies Ordinance, 1984 (XLVII of 1984);

(b) It is not engaged in any business other than that of investment in venture projects;

(c) it has a minimum paid-up capital of fifty million rupees raised through private placement; and

(d) for the purpose of managing its entire business, it has entered into a contract, in writing, with a NBFC duly licensed by the Commission to operate as a venture capital company and a copy of which has been filed with the Commission.

(2) The board of venture capital fund shall not have a director, who is on the board of any venture project being financed by the fund.

30. **Condition for grant of license.-** (1) No venture capital fund shall commence business unless a licence is granted by the Commission under these rules.

(2) For obtaining a license a venture capital fund shall ____

(a) Make an application to the Commission on Form VI providing information as sought in Annex therein, along with all the relevant documents;

(b) Submit a bank draft payable to the Commission evidencing the payment of non-refundable application processing fee amounting to fifty thousand rupees; and

(c) Submit an undertaking that no change in the memorandum and articles of association and in the directors shall be made without prior written authorization of the Commission and that all conditions for grant of license shall be complied with.

(3) On being satisfied that a venture capital fund is eligible for the grant of a license and that it would be in the public interest so to do, the Commission may grant a license in Form VII.

(4) Without prejudice to any other conditions under these rules, the Commission may while granting license imposes any conditions, as it may deem necessary.

31. **Terms and conditions of operation.** - Unless granted a general or specific waiver by the Commission, a venture capital fund shall ____

(a) not expose more than forty per cent of its equity to any single group of companies;

Explanation.- For the purposes of this rule group of companies shall mean companies managed by the members of one family including spouse, dependent lineal ascendants and descendants and dependent brothers and sisters.

(b) Disclose in its accounts all investments in companies and group of companies exceeding ten per cent of paid-up capital of venture capital fund;

(c) ensure that the maximum exposure of the venture capital fund to its directors, affiliated companies and companies in which any of the directors and their family members including spouse, dependent lineal ascendants and descendants and dependent brothers and sisters hold controlling interest shall not exceed ten per cent of the overall portfolio of venture capital; and

(d) Not accept any investment from any investor, which is less than one million rupees.

32. **Renewal of license.** - (1) The license granted to the fund under rule 30 shall be valid for one year and shall be renewable annually on payment of a fee of twenty five thousand rupees on an application being made on Form VIII.

(2) The Commission may, after making such inquiry and after obtaining such further information as it may consider necessary, renew the license of such fund for one year on Form IX on such conditions as it may deem necessary.

33. **Private placement.**- A venture capital fund shall raise and receive monies for investment in venture projects through private placement of such securities as may be notified by the Commission, from time to time.

34. **Placement memorandum.**- A venture capital fund shall, before soliciting placement of its securities, file with the Commission a placement memorandum which shall inter alia give details of the terms subject to which monies are proposed to be raised from such placements.

35. **Enquiry.**- The Commission may cause an enquiry to be made, by any person appointed in this behalf, into the affairs of any venture capital fund, registered under these rules or any of its directors, managers and other officers of the venture capital fund, and the provisions of section 21 and 22 of the Securities and Exchange Ordinance, 1969 (XVII of 1969), shall apply to such an enquiry.

36. **Cancellation of licence.**- (1) Where the Commission is of the opinion that a venture capital fund has contravened any provision, or has failed to comply with any

requirement of any rule or direction made or given hereunder, the Commission may, if it considers necessary in the public interest so to do, by order in writing, cancel the licence of the venture capital fund:

Provided that no such order shall be made except after giving the company an opportunity of being heard.

(2) Upon cancellation of the licence, the functions and carrying on the business of the venture capital fund shall cease and the Commission may move the Court for a winding up order in respect of the venture capital fund or take such other action against the venture capital fund, as the Commission may deem fit.

(3) Notwithstanding cancellation of licence under sub-rule (1), the directors, chief executive, chairman and other responsible officer of the venture capital fund shall not be absolved of any civil and criminal liability under these rules, the Securities and Exchange Ordinance, 1969 (XVII of 1969), or any other law for the time being in force.

(4) Where the licence of the venture capital fund has been cancelled under sub-rule (1), the Commission may, by order in writing, appoint a person as the Administrator to manage the affairs of the funds subject to such terms and conditions as may be specified in the order.

(5) The management of the affairs of the venture capital fund, shall vest in the Administrator on and from the date of the Administrator's appointment until a liquidator is appointed by the Court.

(v) Investment Advisory Services – (A)

37. Terms and conditions to undertake Investment Advisory Services (To operate as Management Company for closed-end Mutual Fund).-

(1) A NBFC applying for grant of license to Commission to operate as an Investment Advisor under these Rules shall provide an undertaking that the investment adviser will at all times hold or beneficially own equity securities of

the investment company of an amount which is neither less than ten per cent nor more than twenty percent of the paid-up value of such securities.

Provided that in case an investment adviser is an adviser to more than one investment company (closed-end mutual fund), the application shall be accompanied by an undertaking that the investment adviser shall invest or arrange the investment for a minimum period of two years.

Provided further that investment advisor of an issuer (closed end mutual fund), the securities of which have already been issued, shall comply with sub-rule (1) within six months of the registration of such issuer as investment company with the Commission.

(2) The NBFC licensed by the Commission to operate as an Investment Advisor shall provide an undertaking that the NBFC will at all times maintain a net capital balance in the capital account of an amount which is not less than one and a half per cent of the paid-up capital attributable to the investment advisory services of the NBFC;

38 Cancellation of license of a NBFC operating as investment advisor: - (1)

Where the Commission is of the opinion that an NBFC licensed to operate as an investment advisor has contravened any provision, or has otherwise failed to comply with any requirement, of the Ordinance or the Securities and Exchange Ordinance, 1969 or of any rule or direction made or given thereunder, or the conditions of the investment advisory contract or the terms of the custodian agreement, the Commission may, if it considers necessary in the public interest so to do by order in writing,-

- (a) Cancel the license of NBFC to act as the investment adviser; or
- (b) Remove NBFC from the office of investment advisor of an investment company; or
- (c) Suspend the license; or

- (d) Issue cease and desist orders to NBFC; or
- (e) Order compensation to be paid to the investors; or
- (f) Ban defaulters to be employed within the security market temporarily or permanently; or
- (g) Imposed fine; or
- (h) Take any combination of the above action.

Provided that no such order shall be made except after giving NBFC an opportunity of being heard.

(2) An NBFC removed from office under clause (b) of sub-rule (1), shall not be entitled to or be paid any compensation or damages for loss of termination of office.

(3) An NBFC of an investment company who is removed from office under clause (b) of sub-rule (1) shall not be appointed to such office of that company until after the expiration of a period of five years from the date of such removal.

(4) Where NBFC of an investment company is removed from that office under clause (b) of sub-rule (1) no director or officer of the investment advisor shall hold the office of director of the investment company or any other office connected with the conduct or management of the affairs of the investment company until after the expiration of a period of five years from the date of such removal.

(5) Where NBFC is removed from office under clause (b) of sub-rule (1) the Commission may, by order in writing, appoint a person, hereinafter referred to as the Administrator, to manage the affairs of the investment company subject to such terms and conditions as may be specified in the order.

(6) The Administrator shall receive such remuneration from the investment

company as the Commission may determine.

(7) The management of the affairs of the investment company shall, on and from the date of appointment of the Administrator, vest in him.

(8) If at any time it appears to the Commission that the purpose of the order appointing the Administrator has been fulfilled, it may permit the investment company to appoint another person as investment advisor; and on the appointment of such investment advisor, the Administrator shall cease to hold office.

(v) Investment Advisory Services – (B)

39. Regulation of the business of Investment Companies (closed-end Mutual Funds)

(1) No company shall commence business as an investment company unless it is registered with the Commission under these rules.

40. Eligibility for registration .- A company proposing to commence business as an investment company shall be eligible for registration under these rules if it fulfils or complies with the following conditions or requirements, namely:-

(a) That such company is registered as a public limited company under the Ordinance;

(b) That it is to function as a closed-end investment company with a capital of not less than one hundred million rupees;

(c) That no director, officer or employee of such company has been convicted of fraud or breach of trust;

(d) that no director, officer or employee of such company has been adjudicated as insolvent or has suspended payment or has compounded with his creditors;

(e) that the promoters of such company are, in the opinion of the Commission,

persons of means and integrity and have special knowledge of matters which the company may have to deal with as an investment company.

41. **Registration.-** (1) Any company which is eligible for registration under Rule 40 as an investment company may make an application in Form X to the Commission for registration under these rules along with an undertaking that more than fifty per cent of the directors of the investment company shall not be taken from NBFC contracted as investment advisor.

(2) An application under sub-rule (1) shall, besides the other documents referred to in Form X, be accompanied by a receipt evidencing a payment of an application processing fee of fifty thousand rupees and an undertaking by the investment adviser of the company that the investment adviser will at all times hold or beneficially own equity securities of the company of an amount which is neither less than ten per cent nor more than twenty percent of the paid-up value of such securities.

(3) The Commission, if it is satisfied after such enquiry and after obtaining such further information as it may consider necessary:--

(i) That the applicant is eligible for registration; and

(ii) That it would be in the interest of the capital market so to do, may grant a certificate of registration to such company in Form XI.

(4) In case an investment company fails to commence business within one year from the date of registration under the rules, unless the period has been extended by the Commission, or the company is de-listed from the stock exchange(s) its registration shall be liable to be cancelled.

42. **Investment policy and diversification.-** (1) The investment policy of an investment company shall be clearly and concisely stated in its Memorandum and Articles of Association and the public offer for the sale of its securities:

(2) An investment company shall not enter into any transaction in any security other than a security, which is listed, on a stock exchange or for the listing of which an application has been made to a stock exchange.

Provided that an investment company may invest in government securities and rated fixed income securities having minimum investment grade rating up to twenty per cent of its total investment portfolio subject to such other conditions as the Commission may notify in this regard.

(3) The investment of an investment company in any other company shall not, at any time, exceed an amount equal to ten percent of net assets of the investment company or an amount sufficient to acquire ten per cent of the issued capital of that other company.

Provided that the Commission may, on application of the investment company, relax any or all conditions in case of an investment company established for a specific investment objective where the intention to that effect was expressed in the prospectus.

(4) An investment company shall not invest more than twenty per cent of its net assets or an amount sufficient to acquire twenty per cent of any class of securities of its associated companies, whichever is less.

Provided an issuer (closed-end mutual fund), the securities of which have already been issued, if not compliant with the rule, shall bring its investments in line with the rule within two years of its registration as an investment company.

43. **Sale of securities and cost thereof.** - (1) Securities representing the capital of an investment company shall be offered to the public at par; but no such offer shall be made-

(a) until the investment advisor of the investment company has made or has arranged to make an investment of the amount referred to in sub-rule (1) of Rule 37; and

(b) Unless the offer has been underwritten by an underwriter appointed by the investment company with the prior approval in writing of the Commission.

(2) An investment company shall not sell any securities for any consideration other than cash.

(3) All expenses incurred in connection with the incorporation of an investment company and the offer for sale of the securities of the company and the distribution of such securities, including commission payable to the underwriters, shall be borne by the investment advisor and shall be reimbursable by the company in equal amounts paid annually over a period of not less than five years.

(4) Interest at the prevailing bank rate shall be payable by the company in respect of the expenses referred to in sub-rule (3).

(5) The expenses referred to in sub-rule (3) shall be reported to the Commission, giving their break-up under separate heads, as soon as the distribution of the securities is completed.

Provided that the investment advisor of an investment company (closed end mutual fund), which is already in issue shall not be entitled for reimbursement of any other expenses except those incurred in connection with the incorporation and registration of the company.

44. **Prohibitions.-** No investment company shall-

(a) Merge with, acquire or takeover any other investment company, unless it has obtained the prior approval of the Commission in writing to the scheme of such merger, acquisition or takeover;

(b) Pledge any of the securities held or beneficially owned by it;

(c) Make a loan or advance of money to any person except in connection with the

normal business of the investment company;

(d) Effect a short sale in any security;

(e) Purchase any security in a forward contract;

(f) Purchase any security on margin;

(g) Participate in a joint account with others in any transaction;

(h) Apply any part of its assets to real estate, commodities or commodities contracts;

(i) Acquire any security of which another investment company is the issuer but this clause shall not apply in case of floatation of an investment company established with a specific investment objective of investing in other investment companies;

(j) Make an investment in a company which has the effect of vesting the management, or control over the affairs, of such company in the investment company;

(k) Employ as a broker, directly or indirectly, any director, officer or employee of the investment company or its investment adviser or any director, officer or employee and enter into transaction with any connected broker, which shall equal or exceed thirty per cent or more of the transactions of the investment in any one accounting year of that company:

The Commission may, in each case on merits, permit the thirty per cent to be exceeded if the connected broker offers advantages to the company not available elsewhere;

(l) Issue at any time, without the prior approval of the Commission in writing, a senior security which is either stock or represents indebtedness; and

(m) Apply for de-listing from stock exchange(s), unless it has obtained prior approval of the Commission in writing.

45. **Transactions with directors, etc. -** No investment company shall without the prior approval of the Commission in writing, purchase from, or sell to, any director, officer or employee of the investment company or of the investment adviser thereof or a person who beneficially owns ten per cent or more of the equity securities of the company or of its investment advisor.

46. **Appointment of investment advisor.-** (1) No investment company shall appoint any person as an investment advisor except by a contract in writing the terms of which have been previously approved by the Commission in writing.

(2) The contract shall, initially or on renewal, be valid for a period not exceeding ten years and shall not be renewed or modified unless such renewal or modification has been authorized by the shareholders of the investment company in general meeting and approved by the Commission.

(3) If the contract as initially entered into or as renewed, is terminated within the first five years of the contract, and not later, compensation for each year of the un-expired period of the contract shall be paid to the investment advisor at the rate of one-fourth of his annual average remuneration during the expired period of the contract.

Explanation.- Where the expired period is a fraction of a year or includes a fraction of a year, the remuneration for the fraction of the year shall be converted pro-rata into full year remuneration and then the average annual remuneration shall be worked out to determine the compensation payable for the un-expired period of the contract; and

(4) The contract shall, among other things, provide that the investment advisor shall bear all expenditure in respect of the secretariat and office space of the company and professional management, including all administrative, accounting and legal services, and that the fee payable to the auditors and the custodian, taxes

on income of the company, brokerage, stamp duty and any other duties or taxes connected with the sale or purchase of securities shall be payable by the investment company.

47. Remuneration payable to investment advisor. - An NBFC licensed to operate as investment advisor of an investment company shall be entitled to be paid annually, after the accounts of the investment company have been audited, a remuneration during the first five years of a company's existence, of an amount not exceeding three per cent of the average annual net assets of the company and thereafter of an amount equal to two per cent of such assets:

Explanation. - Where the average means average of net assets calculated during the year for announcing the price.

48. Power of Commission to give certain directions.- The Commission, if it is satisfied that it is necessary or expedient so to do in the public interest or of the capital market in Pakistan, may, by order in writing, direct an investment company, within such time as may be specified in the order,-

- (a) To disinvest the whole or such part of the investment portfolio as may be so specified;
- (b) To refrain from investing or disinvesting such securities as may be so specified;
- (c) To co-opt one or more persons nominated by the Commission as members of the board of directors of the company with the same status, powers and rights as the other members of the board.

49. Amount distributable to shareholders.- An investment company shall distribute by way of dividend to its shareholders not less than ninety per cent of its income derived from interest, dividends received and capital gains arising from the acquisition and disposal of securities as reduced by such expenses as are chargeable to company under these rules, including the remuneration payable to the investment advisor.

50. **Publication of portfolio securities.-** Every investment company shall cause to be published, in the Bulletin or other such publication of the stock exchange on which its securities are listed, the names and the value of its portfolio securities as at the end of each half-year.

51. **Custody of securities.-** (1) Every investment company shall place and maintain all assets owned or held by the company with a custodian appointed by it with the prior approval in writing of the Commission.

(2) The investment company shall settle with the custodian a scheme for the custody of securities, which shall, among other matters, provide for the circumstances in which the securities may be released from custody.

(3) The custodian shall, if it feels that the nature of any release of a security from custody is contrary to the provisions of these rules, report the matter to the Commission forthwith.

52. **Maintenance of books of accounts and other documents.-** (1) Every investment company shall maintain such books of accounts and other records as shall depict a true and fair picture of its state of affairs, including--

(a) Journals, cash book and other records of original entry forming the basis of entry in any ledger;

(b) Ledgers (or other comparable record) reflecting asset, liability, income and expense;

(c) Ledgers (or other comparable record) showing at any time securities which are receivable or deliverable;

(d) Record of transactions with the bank;

- (e) Register of transaction in securities; and
- (f) Record of the meetings of the board of directors.

(2) The books of account and other records to be maintained under sub-rule (1) shall be preserved for a period of not less than five years.

53. **Periodical reports to shareholders, etc.-** (1) Every investment company shall transmit to its shareholders.-

- (a) an annual report, together with a copy of the balance sheet and income and expenditure account and the auditor's report, not less than twenty one days before the date of the general meeting at which it is to be laid before the shareholders; and
- (b) a quarterly report, within thirty days of the end of each quarter.

(2) Such report, so far as may be applicable, shall be in accordance with requirements set out in the First schedule to these rules, and shall contain a statement showing the securities owned at the beginning of the relevant period, securities purchased or sold during such period, and the securities held at the end of such period together with the value at cost and at market, and the percentage in relation to its own assets and the paid-up capital of the company whose securities are owned.

(3) The statement of income and expenditure of the investment company shall include a statement of income and expenditure of the investment advisor in relation to the investment company.

(4) A copy of the annual report referred to in sub-rule (1) shall, within the time specified therein, be furnished to the Commission together with a statement containing the following information in respect of the investment company as at the end of the year:-

- (a) Total number of security holders.

(b) Particulars of persons holding five per cent or more of the securities of the company at any time during the year.

(c) Names and number of securities held by directors and officers of the company.

(d) Any security of any other issuer sold and then bought during any six-month period.

(e) Particulars of the personnel (executive, research and other) of the investment company.

(f) Remuneration paid to the investment adviser.

(g) Particulars of the personnel (executive, research and others) of the investment advisor.

(h) Fee paid to the auditors.

(i) The date, names of persons attending and minutes of each meeting of the board of directors.

(5) Every investment company shall, as and when required by the Commission by order in writing and within such time as may be specified therein, furnish to the Commission the information regarding the sale price and the capital gain or loss in respect of each security purchased and sold.

(6) Every investment company shall furnish to the stock exchange, where the securities of the company are listed, the Commission and any association of self-regulatory organization, or as directed by the Commission, within fourteen days of the last day of the preceding month, information, as on last date of the preceding month, on the net asset value of securities issued by it, the net assets have been computed in the manner prescribed in clause (v) of sub-rule 1 of Rule (2).

54. **Appointment of auditor.-** (1) Every investment company shall appoint an auditor, who is a Chartered Accountant provided that the auditor:-

a) Shall not be the auditor of the investment advisor appointed by the investment company; and

b) Shall not be appointed for more than five consecutive years.

(2) The Commission shall monitor the general financial conditions of an investment company, and by recording the reason in writing, may order special audit and appoint an auditor, which shall not be the external auditor of the company, to carry out detail scrutiny of affairs of the company, or appoint both the auditor and an inspector, provided that the Commission may, during the course of the scrutiny pass such interim orders and give directions as may be deemed appropriate.

(3) On receipt of the special audit report or report from the inspector, the Commission may direct the company to do or to abstain from doing certain acts and issue directive for immediate compliance which shall be complied forthwith.

55. **Report to be submitted by the investment company.** – (1) Every investment company shall furnish report(s) as may be specified by the Commission, on the matters specified in rules 42, 43, 44, 45, 50 and 51 or any other matter(s) explaining therein any violation of the rule and the reasons thereof.

(2) Every investment company shall submit such periodical returns, to such authorities, members of the company and any other persons as may be prescribed or directed by the Commission in writing, from time to time.

(vi) Asset Management Services

56. **Terms and conditions to undertake Asset Management Services (Management Company for open end Mutual Funds).**-

(1) No NBFC duly licensed by the Commission to operate as an asset

management company shall:-

- (a) Merge with, acquire or take over any other asset management company or a scheme, unless it has obtained the prior approval of the Commission in writing to the scheme of such merger, acquisition or takeover;
- (b) Pledge any of the securities held or beneficially owned by a scheme except for the benefit of the scheme;
- (c) Accept deposits from a scheme;
- (d) Make a loan or advance money to any person except in connection with the normal business of the scheme;
- (e) Participate in a joint account with others in any transaction;
- (f) Apply any part of its assets to real estate except property for its own use;
- (g) Make any investment with the purpose of having the effect of vesting the management, or control, in the scheme; and
- (h) Employ as a broker, directly or indirectly, any of its director, officer or employee or a member of a family of such person which shall include spouse, parents, children, brothers and sisters.

57. **Obligations of asset management company.-** A NBFC duly licensed by the Commission to operate as an asset management company shall,-

- (a) Be obliged to manage the assets of the scheme in the interest of the unit holders in good faith and to the best of its ability and without gaining any undue advantage for itself or any of its related parties or its officers;
- (b) Account to the trustee for any loss in value of the assets of the scheme where such loss has been caused by its negligence, reckless or willful act or

omission;

(c) Be responsible for the acts and omissions of all persons to whom it may delegate any of its functions as manager as if they were its own acts and omission;

(d) maintain at its principal office, proper accounts and records to enable a complete and accurate view to be formed of the assets and liabilities and the income and expenditure of the scheme, all transactions for the account of the scheme and amounts received by the scheme in respect of issues of units and paid out by the scheme on redemption of units and by way of distributions;

(e) prepare and transmit the annual report, together with a copy of the balance sheet and income and expenditure account and the auditor's report of a scheme within four months of closing of the accounting period to the unit holders, and the balance sheet and income and expenditure account shall comply with requirements set out in Schedule II;

(f) within two months of the close of the first half of its year of account, prepare and transmit to the unit holders and the Commission a profit and loss account for, and balance sheet as at the end of that half year, whether audited or otherwise;

(g) maintain a register of unit holders of a scheme and inform the Commission of the address where the register is kept;

(h) appoint with the consent of the trustee, at the establishment of a scheme and upon any vacancy, an auditor who shall be a Chartered Accountant and independent of the auditor of the management company and the trustees and such auditor shall not be appointed for more than five consecutive years and contents of the auditor's report shall be in accordance with Schedule II;

(i) furnish a copy of the annual report together with copies of the balance sheet, income and expenditure account and the auditor's report of a scheme to the Commission within four months of the close of the accounting period together with a statement containing the following information, namely:-

- (i) total number of unit holders; and
- (ii) particulars of the personnel (executive, research and other) of the asset management company; and
- (j) furnish a copy of the company's annual report together with copies of the balance sheet, income and expenditure account and the auditors' report within four months of the close of the accounting period.

58. **Remuneration payable to asset management company:-** An NBFC licensed by the Commission to operate as an asset management company shall be entitled to a remuneration after the accounts of the scheme have been audited, a remuneration during the first five years of a scheme's existence, of an amount not exceeding three per cent of the average annual net assets of the scheme and thereafter of an amount equal to two per cent of such assets:

Explanation.- where the average means the average of net assets calculated during the year for announcing price of units.:-

59. **Authorization of Scheme :-** (1) No scheme shall be offered to the public unless the same is authorized by the Commission.

(2) An application for authorization of a scheme shall contain information as specified in Form XII and shall be accompanied by the following information and documents, namely :-

- (a) The scheme's constitutive documents contents of which have been set out in Schedule III;
- (b) The latest audited accounts, if applicable, of the NBFC licensed by the Commission to operate as the asset management company and resumes of its directors;
- (c) The trustee's latest audited accounts, if available;

- (d) Letter of consent to the appointment from the trustee;
- (e) Application fee amounting to Rs.2, 000,000/- (two million) in the form of bank draft payable to the Commission for authorization of such scheme; and
- (f) An undertaking from the NBFC licensed by the Commission to operate as the management company that it will invest or arrange the investment of two hundred fifty million rupees for a minimum period of two years provided that the undertaking may not be given in case a scheme has been established prior to the commencement of these Rules:

Provided further that the Commission may reduce this requirement to fifty million rupees, where the management company has good performance record of maintaining better rate of total annual return on the scheme(s) managed by it during the previous three years, relatives to a benchmark which the Commission may specify by an order in writing from time to time to measure performance a scheme:

Explanation: For the purpose of this clause, the “benchmark” shall be the all shares index of the State Bank of Pakistan for a scheme that invests in equity; and for a scheme that does not invest in equity, the benchmark shall be the average cut-off rate of State Bank of Pakistan for its twelve-moths treasury bills (short-terms bonds) auction during the period unless this benchmark is revised through an order in writing by the Commission, and the "total annual return" shall mean pay out and appreciation in the value of units on the date of preparation of accounts.

60. Special audit of a scheme.- (1) The Commission shall monitor general financial condition of the scheme, and by recoding the reason in writing, may order special audit and appoint an auditor, which shall not be the external auditor of the scheme, to carry out detailed scrutiny of the affairs of the scheme, provided that the Commission may, during the course of the scrutiny, pass such interim orders and directions as it may deem appropriate.

(2) On receipt of the special audit report, the Commission may direct the asset management company to do or to abstain from doing certain acts and issue directives for immediate compliance, which shall be complied forthwith.

61. **De-authorization :-** (1) Following the authorization of a scheme, the NBFC licensed by the Commission to operate as its management company shall give at least three months' notice to unit holders if it is intended not to maintain such authorization.

(2) If the Commission considers that further continuation of the authorization of the scheme will not be in the interest of unit holders, it will give a three months' notice to the unit holders about the Commission's intention not to maintain such authorization:

Provided that no notice shall be served without offering an opportunity of hearing to the management company.

(3) In case of de-authorization, the management company shall be required to wind-up the scheme and refund the proceeds to the unit holders in such manner and within such time as may be specified by the Commission.

62. **Advertisement and invitations. -** (1) Advertisements and other invitations to the public in Pakistan to invest in a scheme, including public announcements, shall be submitted to the Commission for approval prior to their issue.

(2) The offering documents shall contain the information set out in Schedule IV.

(3) Any advertisement or invitation submitted for approval, which concerns the trustee must be accompanied by its written consent.

(4) The approval so granted may be varied or withdrawn by the Commission after giving an opportunity of hearing to the management company.

(5) Approval of an advertisement or invitation shall be valid for a period of six months from the date of approval provided that there is no change in the

scheme.

63. **Investment policy and diversification :-** (1) Investment policy with respect to a scheme shall be clearly and concisely stated in public offering document for the sale of securities of such scheme.

(2) A scheme shall invest not less than fifty per cent of its assets in listed securities or in securities for the listing of which an application has been approved by a stock exchange.

(3) Investment of a scheme in any company shall not, at any time, exceed an amount equal to ten per cent of the total net asset value of the scheme at the time of investment or ten per cent of the issued capital of the investee company.

(4) No scheme shall invest more than twenty-five per cent of its net asset value in securities of any one sector as per classification of stock exchanges.

Provided that the Commission may, on application by the asset management company, relax any, or all the requirements of this rule in case of any scheme established for a specific investment objective where the intention to that effect was expressed in the offering document;

(5) In case a scheme has been in operation prior to the commencement of these Rules and has been subsequently authorized under these Rules, the Investments made prior to the grant of authorization shall be exempt from restrictions mentioned in sub-rule (3) and (4) for such a period as may be specified by the Commission.

64. **Short sale not allowed :-** No scheme shall effect a short sale in a security whether listed or unlisted.

65. **Limitations and prohibitions :-** (1) No scheme shall lend, assume, guarantee, endorse or otherwise become directly or contingently liable for or in connection with any obligation or indebtedness of any person.

(2) Borrowing shall not be resorted to except for meeting redemption request and such borrowing shall not exceed fifteen per cent of the total net asset value of a scheme at any time and shall be re-payable within a period of ninety days.

(3) The scheme shall not invest in any security of a company if any director or officer of the management company owns more than five per cent of the total nominal amount of the securities issued, or, collectively the directors and officers of the management company own more than ten per cent of those securities.

Provided that this condition shall not apply to a scheme which has been in operation prior to the commencement of these Rules, and has been subsequently authorized under these Rules. However, the management company shall furnish to the Commission the details of such investments within thirty days of authorization of the scheme and also report the changes within fifteen days of the change. Furthermore, such information shall also be disclosed in the annual report and the half-yearly accounts of the scheme.

66. **Appointment of trustees :-** Every investment scheme for which authorization is requested shall appoint a trustee with the approval of the Commission.

67. **Conditions applicable to trustees .-** A trustee shall be :-

(a) a scheduled bank licensed under the Banking Companies Ordinance, 1962 (LVII of 1962), and has been in business for at least five years; or

(b) a trust company which is a subsidiary of a scheduled bank; or

(c) a foreign bank operating as a scheduled bank in Pakistan and operating as trustee internationally; or

(d) a central depository company approved by the Commission.

68. **Obligations of trustee :-** A trustee shall,-

(a) (i) take into its custody or under its control all the property of the

scheme and hold it in trust for the unit holders in accordance with the law and the provision of the constitutive documents; and the cash and registerable assets shall be registered in the name of, or to the order of, the trustee;

(ii) be liable for any act or omission of any agent with whom any investments are deposited as if they were the act or omission of any nominee in relation to any investment forming part of the property of the scheme; and

(iii) be liable for the acts and omissions of the lenders and its agents in relation to assets forming part of the property of the scheme and, where borrowing is undertaken for the account of the scheme, such assets may be registered in the lender's name or in that of a nominee appointed by the lender;

(b) ensure that the sale, issue, repurchase, redemption and cancellation of units effected by a scheme are carried out in accordance with the provisions of the constitutive documents;

(c) ensure that the methods adopted by the management company in calculating the value of units are adequate to ensure that the sale, issue, repurchase, redemption and cancellation prices are calculated in accordance with the provisions of the constitutive documents;

(d) carry out the instructions of the asset management company in respect of investments unless they are in conflict with the provisions of the offering or constitutive documents;

(e) ensure that the investment and borrowing limitations set out in the constitutive documents and the conditions under which the scheme was authorised are complied with;

(f) issue a report to be included in the annual report to be sent to unit holders whether, in the trustee's opinion, the asset management company has in all

material respects managed the scheme in accordance with the provisions of the constitutive documents, if the asset management company has not done so, the respects in which it has not done so and the steps which the trustee has taken in respect thereof; and

(g) ensure that unit certificates are not issued until subscription moneys have been paid.

69. **Retirement of trustee :-** A trustee may, subject to prior approval of the Commission, retire from his office on appointment of a new trustee and the retirement shall take effect at the same time as the new trustee is appointed.

70. **Trustee and the asset management company to be independent :-**

(1) The trustee shall not in any way be related to the NBFC operating as the asset management company.

(2) A director or employee of the trustee shall not be involved in the management company.

71. **Remuneration payable to the trustee :-** A trustee shall be entitled to such fee or remuneration as may be allowed by the management company.

72. **Pricing, issue and redemption of units :-** (1) If an initial offer is made, no investment of subscription money shall be made until the conclusion of the first issue of units at the initial price.

(2) Offer and redemption prices shall be calculated on the basis of the scheme's net asset value divided by the number of units issued and such prices may be adjusted by fees and charges, provided that the amount or method of calculating such fees and charges is clearly disclosed in the offering documents.

(3) The value of investments not listed or quoted on a stock exchange shall be determined on a regular basis by the management company with the approval of the trustee.

- (4) There must be at least four regular dealing days per week.
- (5) Any offer price which the management company or the distribution company quotes or publishes must be the maximum price payable on purchase and any redemption price must be the net price receivable on redemption.
- (6) The maximum interval between the receipt of a properly documented request for redemption of units and the payment of the redemption money to the holder shall not exceed six working days unless redemption has been suspended.
- (7) Where a scheme deals at a known price, and based on information available, where the price exceeds or falls short of the current value of the underlying assets by more than five per cent, the management company shall defer dealing and calculate a new price as soon as possible.
- (8) A permanent change in the method of dealing shall be made after one month's notice to unit holders.
- (9) A temporary change may only be made:-
- (a) in exceptional circumstances, having regard to the interests of unit holders;
 - (b) if the possibility of a change and the circumstances in which it can be made have been fully disclosed in the offering documents; and
 - (c) with the approval of the trustee.
- (10) Suspension of dealings shall be provided for only in exceptional circumstances, having regard to the interests of unit holders.
- (11) The management company shall immediately notify the Commission if dealing in units ceases or is suspended and the fact that dealing is suspended shall also be published immediately following such decision in the newspaper in which the scheme's prices are normally published.

(12) Where redemption requests on any one dealing day exceed ten per cent of the total number of units in issue, redemption requests in excess of ten per cent may be deferred to the next dealing day.

73. **Transaction with connected persons:** - (1) No person shall be allowed to enter on behalf of the scheme into underwriting or sub-underwriting contracts without the prior consent of the trustee unless the scheme or the management company provides in writing that all commissions and fees payable to the management company under such contracts and all investments acquired pursuant to such contracts shall form part of the scheme's assets.

(2) If cash forming part of the scheme's assets is deposited with the trustee, which is not a subsidiary of a banking company, return shall be received on the deposit at a rate not lower than the prevailing rate for a deposit of the size and term.

(3) All transactions carried out by or on behalf of the scheme shall be made as provided in the constitutive documents, and shall be disclosed in the scheme's annual report.

(4) No single connected stock-broker shall account for thirty per cent or more of the scheme's transactions in value in any one financial year of the scheme:

Provided that the Commission may, in each case on merits, permit the thirty per cent to be exceeded if the connected broker offers advantages to the scheme that are not available elsewhere.

74. **Cancellation of License to operate as an asset management company:-**(1) Where the Commission is of opinion that an asset management company has contravened any provision of the Ordinance or the Securities and Exchange Ordinance 1969, or has otherwise neglected or failed to comply with any requirement of these rules or has failed or neglected to carry out its duties to the satisfaction of the trustee, and the Commission or the trustee, as the case may be, considers that it would be in the interest of the unit holders so to do, the Commission may, on its own motion or on the report of the trustee,

by order in writing:-

- a) cancel the license of the NBFC to act as asset management company; or
- b) remove the NBFC from the office of asset management company of the scheme; or
- c) suspend the license; or
- d) issue cease and desist orders to the company; or
- e) order compensation to be paid to the unit holderr; or
- f) ban defaulters to be employed within the security market temporarily or permanently; or
- g) imposed fine; or
- h) take any combination of the above actions.

Provided that no such orders shall be made except after giving the asset management company an opportunity of being heard.

(2) If the registration of an asset management company is cancelled under sub rule (1), the Commission shall appoint another asset management company to manage the scheme or schemes as the case may be.

(3) A NBFC licensed to operate as an asset management company may apply to the Commission for the cancellation of its license as an asset management company if it has, with the prior approval of the Commission, transferred management of its scheme to another asset management company, or its scheme has been de-authorized under rule 49, or the NBFC no more intends to function as an asset management company.

(vii) Discounting Services

75. **Terms and conditions to undertake Discounting Services.-**

To be prescribed by the Commission.

(viii) Export Finance Guarantee Services

76. **Terms and conditions to undertake Discounting Services.-**

To be prescribed by the Commission.

CHAPTER - III

OTHER MATTERS PERTAINING TO REGULATION OF NBFCs.

77. **Maintenance of books of accounts by NBFC .-** (1) Every NBFC shall maintain such books of accounts and other records as shall depict a true and fair picture of its state of affairs, including-

- (a) journals, cash book and other records of original entry forming the basis of entry in any ledger;
- (b) ledgers (or other comparable record) reflecting asset, liability, income and expense;
- (c) ledgers (or other comparable record) showing securities in the portfolio;
- (d) record of transactions with banks;
- (e) record of the meetings of the board of directors; and
- (f) original record of all reports, analysis and memoranda containing investment advice distributed.

(2) Such books of accounts and other records shall be preserved for period of not less than five years.

78. **Audit of accounts.**-(1) The accounts of every NBFC shall be audited by an auditor who is a Chartered Accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961), appointed by the NBFC with the approval in writing of the Commission (which shall be obtained prior to proposing the name of the auditor at the Annual General Meeting) and such auditor shall have the same powers, duties and liabilities as an auditor of a company has under the Ordinance.

(2) A casual vacancy of an auditor shall be filled with the prior approval in writing of the Commission.

79. **Submission of annual report to Commission:** - Every NBFC shall submit to the Commission five copies of annual report, together with a balance sheet, cash flow statement and income and expenditure account and the auditors' report, within four months of the close of its year of account.

80. **Submission of reports etc.**-(1) The Commission shall monitor the general financial condition of a NBFC, and, at its discretion, may order special audit and appoint an auditor to carry out detailed scrutiny of the affairs of the company, or appoint both an auditor and an inspector, provided that the Commission may, during the pendency of the scrutiny, pass such interim orders and directions as may be deemed appropriate.

(2) On receipt of the special audit report or report from the inspector, the Commission may direct the company to do or to abstain from doing certain acts and issue directives for immediate compliance which shall forthwith be complied.

(3) The Commission, in case of gross mis-management of the affairs of NBFC, may also cancel the registration and license granted to NBFC.

(4) Every NBFC shall submit returns as may be prescribed by the Commission from time to time.

81. **Enquiry.**- (1) The Commission may cause an enquiry to be made by any person appointed in this behalf into the affairs of any NBFC registered under these rules or any of its directors, managers or other officers.

(2) Where an enquiry under sub-rule (1) has been undertaken every director, manager or other officer of the NBFC to which or to whose director, manager or other officer the enquiry relates and every other person who has had any dealing with such NBFC, its director, partner, manager or officer shall furnish such information in his custody or power or within his knowledge relating to, or having bearing on the subject-matter of the enquiry as the person conducting the enquiry may by notice in writing require.

(3) The person conducting an enquiry under sub-rule (1) may call for, inspect and seize books of account and documents in possession of any such NBFC or any of its directors, managers or other officers.

82. **Penalties:-** (1) Whoever fails or refuses to comply with, or contravenes any provision of these rules, or knowingly and willfully authorizes or permits such failure, refusal or contravention shall, in addition to any other liability under the Ordinance, be also punishable with fine which may extend to two thousand rupees and where, the contravention is a continuing one, with a further fine which may extend to one hundred rupees for every day after first during which such contravention continues.

(2) Notwithstanding anything contained in sub-rule (1), in case of contravention of any provision of these rules, the Commission may cancel any one or all of the license(s) in respect of the various functions/activities of the NBFC, including the license to operate as a NBFC, after issuing a show cause notice and giving such NBFC an opportunity of being heard or pass any other order which may be deemed appropriate by the Commission.

(3) Upon cancellation of the license(s) the functions and carrying on the business of NBFC shall cease and the Commission may move the Court for a winding up of the company.

83. **Power of the Commission to give directions:—**(1) Where the Commission is satisfied that :

(a) it is in the public interest; or

(b) to prevent the affairs of any NBFC being conducted in a manner detrimental to the interests of the depositors or in a manner prejudicial to the interests of the NBFC; or

(c) to secure the proper management of any NBFC generally;

it is necessary to issue directions / prescribe prudential guidelines / issue circulars to NBFCs generally or to any NBFC in particular, it may, from time to time, issue such directions as it deems fit, and the NBFC or NBFCs, as the case may be, shall be bound to comply with such directions / prescribed prudential guidelines / circulars issued from time to time.

(2) The Commission may, in representation made to it or on its own motion, modify or cancel any direction issued under sub-rule (1), and in so modifying or canceling any direction may impose such conditions as it thinks fit, subject to which the modification or cancellation shall have effect.

84. Power of the Commission to remove directors or other managerial persons from office—(1) where the Commission satisfied that:

(a) the association of any chairman or director or chief executive (by whatever name called) or any other officer of a NBFC, is or is likely to be detrimental to the interests of the NBFC or its depositors or otherwise undesirable; or

(b) In the public interest; or

(c) To prevent the affairs of a NBFC being conducted in a manner detrimental to the interest of its depositors or in a manner prejudicial to the interests of the NBFC; or

(d) to secure the proper management of any NBFC; it is necessary so to do, the Commission may, for reasons to be recorded in writing, by order, remove from office, with effect from such date as may be specified in the

order, any chairman or director or chief executive (by whatever name called) or any other officer of the NBFC .

(2) No order under sub-rule (1) shall be made unless the chairman or director or chief executive or other officer has been given a reasonable opportunity of making a representation to the Commission against the proposed order:

Provided that if, in the opinion of the Commission, any delay would be detrimental to the public interest or the interest of the NBFC or its depositors, the Commission may, at the time of giving the opportunity aforesaid or at any time thereafter and pending the consideration of the representation aforesaid, if any, by order direct that—

(i) the chairman or, as the case may be, director or chief executive or other officer shall not, with effect from the date of the order,—

(a) Act as such chairman or director or chief executive or other officer of the NBFC; or

(b) In any way, whether directly or indirectly, be concerned with, or take part in the management of the NBFC; and

(ii) Any person authorized by the Commission in this behalf shall act as such chairman or director or chief executive of the NBFC; and

(3) Where any order under sub-rule (1) is made in respect of a chairman or director or chief executive or any other officer of a NBFC, he shall cease to be a chairman or, as the case may be, a director or chief executive or other officer of the NBFC and shall not in any way, whether directly or indirectly, be concerned with, or take part in, the management of the NBFC or any other NBFC for such period not exceeding three years as may be specified in the order.

(4) Any person appointed as chairman or director or chief executive under sub-rule (2) shall—

(a) hold office during the pleasure of the Commission subject to such conditions as may be specified in the order of his appointment and, subject thereto, for such period, not exceeding three years as the Commission specify; and

(b) Not incur any obligation or liability for anything which is done or intended to be done in his capacity as such chairman or director or chief executive.

(5) No person removed from office under sub-rule (1) shall be entitled to claim any compensation for the loss or termination of office.

85. Power of the Commission to supersede Board of Directors of NBFC.—(1) where the **Commission** is satisfied that –

(a) The association of the Board of Directors (by whatever name called) of a NBFC is or is likely to be detrimental to the interests of the NBFC or its depositors or otherwise undesirable; or

(b) For all any of the reasons mentioned in sub-rule (1) of Rule 84;

it is necessary so to do, the Commission may, for reasons to be recorded in writing, by order, supercede the Board of Directors of a NBFC with effect from such date and for such period as may be specified in the order.

(2) The period of supercession specified in an order under sub-rule (1) may from time to time be extended by the Commission so, however, that the total period of supercession does not exceed three years.

(3) All orders and duties of the Board of Directors shall, during the period of supersession, be exercised and performed by such person as the Commission may from time to time appoint in this behalf.

(4) The provisions of sub-rules (2), (3), (4), and (5) of Rule 84 shall, with the necessary modification, apply to an order made under sub-rule (1) or sub-rule (3).

86. (1) Any person or NBFC aggrieved by an order made by the Commission under Rule 84 or Rule 85 may make an appeal to the Appellate Bench of the Commission whose decision shall be final.

(2) No action taken under Rule 84 or Rule 85 or sub- rule (1) shall be called in question by or before any court, tribunal or other authority.

87. **Prosecution of directors, chief executives or other officers.**— Notwithstanding anything contained in Rule 84, the Commission may direct prosecution of a director or chief executive by whatever name called or any other officer who, in its opinion, has knowingly acted in manner causing loss of depositors' money or of the income of the NBFC.

Explanation:- For the purpose of this Rule a director or chief executive or other officer shall be deemed to have acted knowingly if he has departed from established NBFC business practices and procedures or circumvented the regulations or directions/ restrictions laid down by the Commission from time to time.

88. **Relaxation of rules .** -- Where, the Commission is satisfied that it is not practicable to comply with any requirements of these rules in a particular case, or class of cases, or it would be in the interest of capital market so to do, the Commission may, with the approval of the Federal Government, for reasons to be recorded, relax such requirements subject to such conditions as it may deem fit.

F.SC/LES-D/ /2002

(Mohammed Hayat Jasra)
Executive Director (Law)

FORM-I

[Refer rule 4(1)]

APPLICATION FOR PERMISSION TO FORM A NON – BANKING FINANCE COMPANY

Dated: _____

To

The Securities and Exchange

Commission of Pakistan,

Islamabad.

Dear Sir,

We hereby apply for grant of permission under rule 4 of the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2002, to form a Non-Banking Finance Company under the name and style of * -----

The information and documents as required in the Annexure to this form duly verified and signed by all promoters and proposed directors along with five spare copies of this application and an affidavit by them as to the correctness of the details, is submitted.

We undertake to keep this information upto date by communicating changes or modifications therein within fourteen days of such changes/modifications.

A receipt of Rs. 100,000/- being the processing fee, deposited in-----
on -----is enclosed.

Yours faithfully,

Verification by

Oath Commissioner.

* Name of the company

ANNEXURE TO FORM-I

[Refer rule 4]

INFORMATION TO BE SUPPLIED FOR OBTAINING PERMISSION TO FORM A NON – BANKING FINANCE COMPANY AND SUBSEQUENT CHANGE IN DIRECTORSHIP AND CHIEF EXECUTIVE

1. Full name, former name if any, father's or husband's name, nationality, residential and business address, national tax number, present occupation of each sponsor, proposed director, proposed chief executive and proposed chairman of the Board. (Institutional sponsors shall mention their names and addresses only instead of giving all these particulars of their nominee directors).
2. Names and addresses of companies, firms and other organizations of which the aforesaid sponsors, proposed chief executive and proposed chairman are or have been directors, partners or office holders during the last ten years. Copies of annual accounts of such companies and firms for the last three years alongwith summary of their paid-up share capital, free reserves, profit after tax and dividend payment to be provided.
3. Financial standing, educational as well as professional qualifications and experience of persons mentioned in paragraph 1 above, supported by documentary evidence.
4. Percentage of capital, each sponsor proposes to contribute in the proposed company.
5. Feasibility report of the proposed company.
6. Evidence of payment of income tax and wealth tax by the sponsors in individual capacity as well as by the companies, firms, etc., wherein they are or have been directors during the preceding five years.
7. Net-worth certificate of each sponsor supported by a duly authenticated copy of the latest wealth statement filed with the taxation department. In the case of sponsors/directors residing in countries where filing of wealth statement is not the requirement of law, a certificate of personal net-worth and general reputation issued by a bank of international repute shall be acceptable.
8. Names of the bankers of the sponsors along with their account numbers.
9. Draft of the Memorandum and Articles of Association.
10. Affidavit from each person mentioned in paragraph 1 above, stating that-
 - (i) he has not been associated with any illegal banking business, deposit taking or financial dealings;

- (ii) He and companies in which he is a director or major shareholder have no over-due loans or installments outstanding towards banks or other financial institutions;
- (iii) neither he nor companies in which he is a director or major shareholder has defaulted in paying taxes as on the date of application;
- (iv) He has not been sponsor, director or chief executive of a defaulting cooperative finance society or finance company;
- (v) He has never been convicted of fraud or breach of trust or of an offense involving moral turpitude or removed from service for misconduct;
- (vi) He has neither been adjudged an insolvent nor has defaulted in making payments, to his creditors;
- (vii) His net-worth is not less than twice the amount to be subscribed by him personally (not applicable to a nominee director).

FORM-II

[Refer rule 5(1)]

**APPLICATION FOR OBTAINING LICENSE TO UNDERTAKE / CARRY OUT
* _____ AS NON – BANKING FINANCE COMPANY**

Dated, the-----

To,

The Securities & Exchange

Commission of Pakistan,

Islamabad.

Dear Sir,

We hereby apply for grant of licence under rule 5 of the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2002, to undertake _____* as a Non-Banking Finance Company.

2. We hereby furnish the following information:-

- (a) Date of incorporation as a limited company.
- (b) Authorized, subscribed and paid-up share capital of the company (sponsors' equity indicated separately).
- (c) Names and addresses of directors and number of shares held by each of them.
- (d) Directors' interest, direct or indirect, in any other company (ies) with details of such interest.
- (e) Details of persons or group controlling the company including major shareholders with number and value of shares held.
- (f) Name(s) of holding, subsidiary and associated undertaking(s), if any.
- (g) Details of qualified staff engaged.
- (h) Reasons for selecting the proposed place of business with statistical data.
- (i) Additional facts in support of this application.

3. Certified copies of the Memorandum and Articles of Association and Certificate of Incorporation are enclosed.

4. An affidavit as to the correctness of the above information by the chief executive and two directors is also furnished herewith. We undertake to keep this information upto date by communicating changes or modifications therein within fourteen days of such change or modifications.

5. A receipt of Rs. 100,000/- being the processing fee, deposited in _____ on _____ is enclosed.

Yours faithfully,

Signature-----

(To be signed by all the directors)

*Any one of the activities / functions as mentioned under clause (w) of sub-rule (1) of Rule 2 of Non-Banking Finance Companies (Establishment and Regulation) Rules, 2002,

FORM -III

[Refer rule 5(2)]

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Islamabad, Dated, the _____

Registration No. _____

**LICENCE TO CARRY OUT / UNDERTAKE * _____ AS NON-BANKING
FINANCE COMPANY**

The Securities & Exchange Commission of Pakistan having considered the application for grant of licence under rule 5 of the Non-Banking Finance Company (Establishment and Regulation) Rules, 2002, by ** _____ and being satisfied that the said ** _____ is eligible for the licence, hereby grants, in exercise of the powers conferred by sub-rule (2) of rule 5 of the Non-Banking Finance Company (Establishment and Regulation) Rules, 2002, licence to ** _____ to undertake / carry out * _____ subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

Signature of the Officer

*Any one of the activities / functions as mentioned under clause (w) of sub-rule (1) of Rule 2 of Non-Banking Finance Companies (Establishment and Regulation) Rules, 2002

** Name of the Company

(Official Seal and Stamp)

FORM IV

[Refer rule 5(4)]

APPLICATION FOR RENEWAL OF LICENCE TO CARRY OUT

*** _____ AS NON-BANKING FINANCE COMPANY**

Islamabad the

Securities and Exchange Commission of Pakistan,

Government of Pakistan,

Islamabad

Dear Sir,

We hereby apply for renewal of the licence to carry out
*.....of **..... under rule 5 of the Non-Banking
Finance Company (Establishment and Regulation) Rules, 2002,

The licence issued or renewed earlier is due to expire on.....

2. Original receipt of challan evidencing payment of renewal fee of
Rs.25000/- is enclosed.

6. It is requested that the licence may be renewed w.e.f. for a period one year.

Yours faithfully,

Name/Signature of the
Secretary or a director
of the company.

*Any one of the activities / functions as mentioned under clause (w) of sub-rule
(1) of Rule 2 of Non-Banking Finance Companies (Establishment and Regulation)
Rules, 2002,

** Name of the company.

FORM V

[Refer rule 5(5)]

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

LICENCE TO CARRY ON * _____ AS

NON-BANKING FINANCE COMPANY

Islamabad, the.....

The Securities and Exchange Commission of Pakistan, having considered the application for renewal of licence to carry out * _____ submitted by ** under rule 5 of the Non-Banking Finance Company (Establishment and Regulation) Rules, 2002, and being satisfied that it would be in the public interest so to do, in exercise of powers conferred by rule 5(5) of the said Rules, hereby renew the licence of ** to carry out * _____ subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

.....

(Signature of the officer)

* Any one of the activities / functions as mentioned under clause (w) of sub-rule (1) of Rule 2 of Non-Banking Finance Companies (Establishment and Regulation) Rules, 2002,

** Name of the company.

APPLICATION FORM FOR GRANT OF LICENCE

AS A VENTURE CAPITAL FUND

FORM VI

[Refer rule 30(2)]

Securities and Exchange Commission of Pakistan,

Government of Pakistan,

Islamabad.

Dear Sir,

We hereby apply for grant of licence to*..... Under rule 30(2) of the Non-Banking Finance Company (Establishment and Regulation) Rules, 2002.

2. Two copies of the memorandum and articles of association are enclosed. Necessary information required under rule 29 and 30 of the said Rules has been annexed. We undertake to keep this information up-to-date at all times.

3. A receipt of Rs. 50,000/- being the processing fee, deposited in _____ on _____ is enclosed.

Yours faithfully,

Name/Signature of the Secretary or a
director of the venture capital fund

* Name of the venture capital fund.

Annex to Form VI

Information to be enclosed at the time of application for grant of licence.

PART I

Please provide information in respect of directors, chief executive and chairman:

- (1) Name, former Name (if any).
- (2) Father's name.
- (3) Nationality.
- (4) Residential address.

(5) Business address.

PART II

1	Whether the company has been incorporated as a public limited company under the Companies Ordinance, 1984.	Yes	No
2	If yes, whether copy of certificate of incorporation issued by CRO and two copies of memorandum and article of association have been enclosed with the application.	Yes	No
3	Whether processing fee amounting to Rs..... has been deposited in favour of the Securities and Exchange Commission of Pakistan in designated branch of the bank.	Yes	No
4	Feasibility report is enclosed.	Yes	No

FORM VII

[Refer rule 30(3)]

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

LICENCE TO CARRY ON THE BUSINESS OF A

VENTURE CAPITAL FUND

Islamabad, the

The Securities and Exchange Commission of Pakistan, having considered the application for grant of licence and being satisfied that *.....is eligible for grant of licence and that it would be in the public interest so to do, in exercise of the powers conferred by rule 30(3) of the Non-Banking Finance Company (Establishment and Regulation) Rules, 2002, hereby grants licence to *.....for a period of one year from.....to..... subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

.....

(Signature of the officer)

* Name of the venture capital fund.

FORM VIII

[Refer rule 32(1)]

**APPLICATION FOR RENEWAL OF LICENCE TO OPERATE AS VENTURE
CAPITAL FUND**

Islamabad the

Securities and Exchange Commission of Pakistan,

Government of Pakistan,

Islamabad

Dear Sir,

We hereby apply for renewal of the licence of *..... under rule 32(1) of the Non-Banking Finance Company (Establishment and Regulation) Rules, 2002.

2. The licence issued and renewed earlier is due to expire on.....
3. Original receipt of challan evidencing payment of renewal fee of Rs. 25,000/- is enclosed.
4. Schedule of investment clearly indicating project-wise investment made, results of investment as on the date of application and results expected in future is enclosed herewith.
5. It is requested that the licence may be renewed w.e.f. for a period one year.

Yours faithfully,

Name/Signature of the
Secretary or a director
of the fund

* Name of the venture capital fund.

FORM IX

[Refer rule 32(2)]

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
LICENCE TO CARRY ON THE BUSINESS OF A
VENTURE CAPITAL FUND

Islamabad, the.....

The Securities and Exchange Commission of Pakistan, having considered the application for renewal of licence submitted by *.....under rule 32 of the Non-Banking Finance Company (Establishment and Regulation) Rules, 2002, and being satisfied that it would be in the public interest so to do, in exercise of powers conferred by rule 32(2) of the said Rules, hereby renew the licence of*..... Subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

.....

(Signature of the officer)

* Name of the venture capital fund.

FORM X

[Refer rule 41]

FORM OF APPLICATION FOR REGISTRATION AS AN INVESTMENT COMPANY

To

Securities and Exchange Commission of Pakistan,

Government of Pakistan,

Islamabad

Dear Sir,

We hereby apply for the registration of ----- (Name of Investment Company) under rule 41 of the Non-Banking Finance Company (Establishment and Regulation) Rules, 2002.

2. An undertaking (in original) from the investment adviser in terms of rule 41 of the aforesaid Rules and four copies of each of the following documents are enclosed:-

(i) Memorandum and Articles of Association.

(ii) Investment Advisory Contract.

(iii) Custodian Agreement.

(iv) Underwriting Agreement.

3. We hereby undertake to take all steps necessary to have the securities issued by us listed on a stock exchange.

4. Necessary information required in the annex to this form is furnished. We undertake to keep the information up-to-date at all times.

5. A receipt of Rs. 50,000/- being the processing fee, deposited in _____ on _____ is enclosed.

Yours faithfully,

Signature of the Secretary or
a director of the applicant company.

- 1 Name, address and telephone number(s) of the Company
- 2 Date and place of incorporation
- 3 Names and addresses of directors, distinguishing between promoter directors and other directors
- 4 Whether any director has been convicted of fraud or breach of trust.
- 5 Whether any director has been adjudicated as insolvent or has suspended payment or has compounded with his creditors.
- 6 Names and addresses of officers and employees.
- 7 Whether any officer or employee has been convicted for fraud or breach of trust.
- 8 Whether any officer or employee has been adjudicated as insolvent or has suspended payment or has compounded with his creditors.
- 9 Names of the directors, officers and employees of the investment company and those of the investment adviser thereof who are members of a stock exchange.
- 10 Director's interest, direct or indirect in any other investment company.
- 11 Previous experience of the promoters/directors in the investment field.
- 12 The financial standing of the promoters/directors (Attach proof, if any).
- 13 (a) Authorized capital of the company.
- 13 (b) Part of such capital proposed to be raised through public offer.
- 14 Name, address and telephone number of the investment adviser.
- 15 Name and address of the custodian.
- 16 Name and address of the underwriter.
- 17 Financial standing and resources of the underwriter.

FORM XI

[Refer rule 41(3)]

CERTIFICATE OF REGISTRATION AS IN INVESTMENT COMPANY

Islamabad, the_____20__

The Commission having considered the application for registration under rule 41 of Non-Banking Finance Company (Establishment and Regulation) Rules, 2002. by.....(Name of the Investment Company) and being satisfied that the said..... (Name of the Investment Company) is eligible for registration and that it would be in the interest of the capital market so to do, hereby grants, in exercise of the powers conferred by rule 41(3) of Non-Banking Finance Company (Establishment and Regulation) Rules, 2002. , registration to..... (Name of the investment company) subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

2. The draft agreement between..... (Name of the investment company) and..... (Name of the investment Adviser) is approved subject to the following conditions:--

3. The appointment of..... (Name of custodian) is hereby approved subject to the following conditions:-

4. The appointment of(Name of the investment adviser) is hereby approved subject to the following conditions:-

Signature of the officer.

"THE FIRST SCHEDULE

[Refer rule 53(2)]

DISCLOSURE REQUIREMENTS FOR INVESTMENT COMPANIES

1. General

(1) Annual report must contain all the information required in this Schedule. Interim reports must at least contain the statement of assets and liabilities and the investment portfolio. Where the investment company has paid or proposes to pay an interim dividend, the amount of dividend should be disclosed.

(2) All reports must contain comparative figures for the previous period except for the investment portfolio.

(3) The items listed under the statement of assets and liabilities, income statement, distribution statement, statement of movements in reserves and the notes to the accounts, where applicable, must be disclosed. It is, however, not mandatory to adopt the format as shown or to disclose the items in the same order.

2. Statement of assets and liabilities.

The following must be separately disclosed, namely:-

- (i) total value of investments;
- (ii) Bank balances;
- (iii) preliminary and floatation costs;
- (iv) dividends and other receivable;
- (v) bank loan and overdrafts or other forms of borrowings;
- (vi) Dividend payable;
- (vii) Total value of all assets;
- (viii) Total value of all liabilities; and
- (ix) Net asset value.

3. Income statement.

- (1) Total investment income net of withholding tax, broken down by category.
- (2) Total other income, broken down by category.
- (3) Element of income and capital gains.
- (4) An itemized list of various costs which have been debited to the scheme including,--
 - (a) Fees paid to the investment adviser;
 - (b) Remuneration of the custodian;
 - (c) Amortization of formation costs; director's fee and remuneration;
 - (d) Safe custody and bank charges; auditor's remuneration;
 - (e) borrowing expenses; legal and other professional fees; and
 - (f) Any other expense borne by the company.
- (5) Taxes.
- (6) Amounts transferred to and from reserves.
- (7) Net income to be carried forward for distribution.

4. Distribution statement.

- (1) Amount brought forward at the beginning of the period.
- (2) Net income for the period.
- (3) Interim dividend and date of distribution.
- (4) Final dividend per share.
- (5) Undistributed income carried forward.

5. Statement of movements in reserves.

- (1) Net asset value per share as at the beginning of the period.
- (2) Net asset value per share as at the end of the period.
- (3) Any item resulting in an increase or decrease in net asset value of the share including, -
 - (i) Surplus or loss on sale of investments;
 - (ii) exchange gain or loss;
 - (iii) unrealized appreciation or diminution in value of investments; and
 - (iv) Net income for the period less distribution.
- (4) Amounts transferred to and from the revenue account.

6. Notes to the accounts.

The following matters shall be set out in the notes to the accounts.

- (1) Principal accounting policies:
 - (a) The basis of valuation of the assets of the company including the basis of valuation of unquoted and unlisted securities;
 - (b) The revenue recognition policy regarding dividend income and other income;
 - (c) Foreign currency translation, if any;
 - (d) The basis of amortization of formation costs;
 - (e) Taxation; and
 - (f) Any other accounting policy adopted to deal with items which are judged material or critical in determining the transactions and in stating the disposition of the investment company.

Note.- Any changes to the above accounting policies and their financial effects upon the accounts should also be disclosed.

(2) Transactions with connected persons:

The following transactions should be disclosed, namely:-

(1) Details of all transactions entered into during the period between the company and the investment adviser, or any entity in which these parties or their connected persons have a material interest; and

(2) Name of any director of the investment adviser or any connected person if such a person becomes entitled to profits from transactions in shares or from management of the company and the amount of profits to which such person becomes entitled.

(3) Borrowings:

(1) State whether the borrowings are secured or unsecured and the duration of the borrowings.

(2) Contingent liabilities and commitments of the company.

(3) If the free negotiability of any asset is restricted by statutory or contractual requirements, this must be stated.

7. Contents of the auditors' report.

The report of the auditor should state --

(1) Whether in the auditor's opinion, the accounts prepared for that period have been properly prepared in accordance with the relevant provisions of the rules;

(2) Without prejudice to the foregoing, whether in the auditor's opinion, a true and fair view is given of the disposition of the company at the end of the period and of the transactions of the scheme of the period then ended;

(3) if the auditor is of the opinion that proper books and records have not been kept by the company or the accounts prepared are not in agreement with the company's books and records, that fact; and

(4) If the auditor has failed to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purpose of the audit, that fact.

8. Investment portfolio.

(1) Number or quantity of each holding together with the description and market value.

(2) The total investment stated at cost.

- (3) The value of each holding as a percentage of the total investments.
- (4) Statement of movements in portfolio holdings since the end of the preceding accounting period.

9. Performance table.

(I) A comparative table covering the last three financial years and including, for each financial year, at the end of the financial year.--

(a) total net asset value; and

(b) net asset value per share.

(2) A performance record over the last ten financial years; or if the company has not been in existence during the whole of that period in which it has been in existence, showing the earnings per share and dividend distribution during each of those years."

SCHEDULE-II

[Refer rule 57(e)]

CONTENTS OF FINANCIAL REPORTS

1. General

(1) Annual report must contain all the information required in this Schedule. Interim reports must at least contain the statement of asset and liabilities and the investment portfolio. Where the scheme has paid or proposes to pay an interim dividend, the amount of dividend should be disclosed.

(2) All reports must contain comparative figures for the previous period except for the investment portfolio.

(3) The items listed under the statement of assets and liabilities, income statement, distribution statement, statement of movements in reserves and the notes to the accounts, where applicable, must be disclosed. It is, however, not mandatory to adopt the format as shown or to disclose the items in the same order.

2. Statement of assets and liabilities

The following must be separately disclosed:-

- (1) total value of investments;
- (2) bank balances;
- (3) preliminary and floatation costs;

- (4) dividends and other receivables;
- (5) amounts receivable on subscription;
- (6) bank loan and overdrafts or other forms of borrowings;
- (7) amounts payable on redemption;
- (8) distribution payable;
- (9) total value of all assets;
- (10) total value of all liabilities;
- (11) net asset value;
- (12) number of units issued; and
- (13) net asset value per unit.

3. Income statement

- (1) Total investment income net of withholding tax, broken down by category.
- (2) Total other income, broken down by category.
- (3) Element of income and capital gains in prices of units sold less those in redemption.
- (4) An itemized list of various costs which have been debited to the scheme including, --
 - fees paid to the management company;
 - remuneration of the trustee;
 - amortization of formation costs;
 - director's fee and remuneration;
 - safe custody and bank charges;
 - auditor's remuneration;
 - borrowing expenses;
 - other amounts paid to any connected person of the scheme;
 - legal and other professional fees; and

- any other expense borne by the scheme.
- (5) Taxes.
- (6) Amounts transferred to and from reserves.
- (7) Net income to be carried forward for distribution.

4. Distribution statement:

- (1) Amount brought forward at the beginning of the period.
- (2) Net income for the period.
- (3) Interim distribution per unit and date of distribution.
- (4) Final distribution per unit and date of distribution.
- (5) Undistributed income carried forward.

5. Statement of movements in reserves:

- (1) Value of the scheme as at the beginning of the period.
- (2) Number of units issued and the amount received upon such issuance.
- (3) Number of units redeemed and the amount paid on redemption.
- (4) Any item resulting in an increase or decrease in value of the scheme including. -
 - (i) surplus or loss on sale of investment;
 - (ii) exchange gain or loss;
 - (iii) unrealized appreciation or diminution in value of investment; and
 - (iv) net income for the period less distribution.
- (5) Amounts transferred to and from the revenue account.
- (6) Value of the scheme as at the end of the period.

6. Note to the accounts:

The following matters shall be set out in the notes to the accounts.

- (1) Principal accounting policies
 - (a) the basis of valuation of the assets of the scheme including the

basis of valuation of unquote and unlisted securities;

- (b) the revenue recognition policy regarding dividend income and other income;
- (c) foreign currency translation, if any;
- (d) The basis of amortization of formation costs;
- (e) taxation; and
- (f) any other accounting policy adopted to deal with items which are judged material or critical in determining the transactions and in stating the disposition of the scheme.

Note. – Any changes to the above accounting policies and their financial effects upon the accounts should also be disclosed.

(2) Transactions with connected persons:

The following transactions should be disclosed:

(1) Details of all transactions entered into during the period between the scheme and the management company, or any entity in which these parties or their connected persons have a material interest; and

(2) Name of any director of the management company of any connected person if such a person becomes entitled to profits from transactions in shares or from management of the scheme and the amount of profits to which such person becomes entitled.

(3) Borrowings:

(1) State whether the borrowings are secured or unsecured and the duration of the borrowings.

(2) Contingent liabilities and commitments of the scheme.

(3) If the free negotiability of any asset is restricted by statutory or contractual requirements, this must be stated.

7. Contents of the auditors' report

The report of the auditor should state: -

(1) whether in the auditor's opinion, the accounts prepared for that period have been properly prepared in accordance with the relevant provisions of the trust deed and the rules;

(2) without prejudice to the foregoing, whether in the auditor's opinion, a true and fair view is given of the disposition of the scheme at the end of the period and of the

transactions of the scheme of the period then ended;

(3) if the auditor is of opinion that proper books and records have not been kept by the scheme or the accounts prepared are not in agreement with the scheme's books and records, that fact; and

(4) if the auditor has failed to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purpose of the audit, that fact.

8. Investment portfolio

(1) Number or quantity of each holding together with the description and market value.

(2) The total investment stated at cost.

(3) The value of each holding as a percentage of net asset value.

(4) Statement of movements in portfolio holdings since the end of the preceding account period.

9. Performance table

(1) A comparative table covering the last three financial years and including, for each financial year, at the end of the financial year. -

(a) total net asset value; and

(b) net asset value per unit.

(2) A performance record over the last ten financial years; or if the scheme has not been in existence during the whole of that period in which it has been in existence, showing the highest issue price and the lowest redemption price of the units during each of those years.

FORM XII

[Refer rule 59(2)]

INFORMATION TO BE CONTAINED IN THE APPLICATION FOR AUTHORIZATION OF A SCHEME

Details of the scheme :-

1. Name of the scheme.
2. Structure of the scheme.

3. Launch; date and place.
4. Dealing; daily/weekly/other.
5. Valuation of assets; daily/weekly/other.
6. Pricing policy.
7. Investment plans to be offered.

For each Scheme :-

8. Fee structure:

- (i) Level of all charges payable by investor; and
- (ii) Level or basis of calculation of all charges payable by the scheme.

Details of the parties to the scheme :-

9. The asset management company:

- (a) Name.
- (b) Registered or business address.
- (c) Name of the ultimate holding company, if any.
- (d) Previous approval of the Authority to manage authorized schemes. If no, the resumes of the directors and most recent audited financial report.

10. The trustee:

- (a) Name.
- (b) Registered or business address.
- (c) Name of the ultimate holding company, if any.
- (d) Previous approval of the Authority as trustee of authorized schemes. If no, names of the directors and most recent audited financial report.

11. For the trustee and asset management company:

- (a) Which, if any, of these companies are connected persons?
- (b) Name anyone who holds appointments, as director or officer, with more than one of these companies.

12. Distribution company:

(a) Name.

(b) Registered or business address.

(c) Name of ultimate holding company.

13. The auditor:

(a) Name.

(b) Registered or business address.

14. The principal broker:

(a) Name.

(b) Registered or business address.

(c) The approximate percentage of the scheme's transactions in value of securities carried out by the principal broker within the latest financial year of the scheme.

(d) Whether the trustee, the directors of the scheme or the asset management company is a connected person of the principal broker?

15. Legal Adviser:

(a) Name.

(b) Registered or business address.

SCHEDULE – III

[Refer rule 59(2) (a)]

CONTENTS OF THE CONSTITUTIVE DOCUMENTS

1. Name of scheme.

2. Participating parties:

A statement to specify the participating parties including the asset Management Company and trustee.

3. Governing law.

4. For unit trusts: -

- (a) A statement that the deed is binding on each holder as if he had been a party to it and so to be bound by its provisions and authorizes and requires the trustee and the management company to do as required of them by the terms of the deed.
- (b) A provision that a holder is not liable to make any further payments after he had paid the purchase price of his units and that no further liability can be imposed on him in respect of the units which he holds.
- (c) A declaration that the property of the scheme is held by the trustee on trust for the holders of the units ***pari passu*** according to the number of units held by each holder. (This may be modified as appropriate for schemes offering income and accumulation units.)
- (d) A statement that the trustee will report to unit holders in accordance with the rules.
- (e) A statement of the manner in which the trustee should retire.

5. Role of Management Company:

A statement of list the obligations of the management company in accordance with the rules.

6. Investment and borrowing restrictions:

A statement of list the restrictions on the investment of the deposited property and the maximum borrowing limit of the scheme.

7. Valuation of property and pricing:

The following rules on valuation of property and pricing must be stipulated:-

- (a) The method of determining the value of the assets and liabilities of the property of the scheme and the net asset value accordingly;
- (b) The method of calculating the issue and redemption prices; and
- (c) The method of pricing and the circumstances under which it can change.

8. Dealing, suspension and deferral of dealing:

The following must be stated: -

- (a) the circumstances under which the dealing of units can be deferred or suspended;

- (b) the maximum interval between the receipt of a properly documented request for redemption of units and the payment of the redemption money to the holder not to exceed six working days; and
- (c) The circumstances under which the dealing may be suspended.

9. Fees and charges:

The following must be stated: -

- (a) The maximum percentage of the initial charge payable to the management company out of the issue price of a unit;
- (b) The maximum fee payable to the management company out of the property of the scheme, expressed as an annual percentage;
- (c) Remuneration payable to trustee;
- (d) formation cost to be amortized against the property of the scheme; and
- (e) All other material fees and charges payable out of the property of the scheme.

10. Transactions with connected persons: -

The following must be stated: -

- (a) Cash forming part of the property of the scheme may be placed as deposits with the trustee or an institution licensed to accept deposits;
- (b) money can be borrowed from the trustee or any other institution provided that the charges are not higher than the normal bank charges; and
- (c) any transaction between the scheme and the management company or any of their connected persons as principal may only be made with the prior written consent of the trustee.

11. Distribution policy and date:

The approximate date(s) in the calendar year on which annual income, if any, will be distributed.

12. Annual accounting period:

The date in the calendar year on which the annual accounting period ends.

13. Base currency:

A statement of the base currency of the scheme.

14. Modification of the constitutive documents:

A statement of the means by which modifications to the constitutive documents can be effected.

15. Termination of scheme:

A statement of the circumstances in which the scheme can be terminated.

SCHEDULE – 1V

[Refer rule 62(2)]

INFORMATION TO BE DISCLOSED IN THE OFFERING DOCUMENT

Notice: - This list is not intended to be exhaustive. The directors of the schemes or the management company are obliged to disclose any information which may be necessary for investors to make an informed judgment.

Constitution of the scheme

1. Name, registered address and place and date of creation of the scheme, with an indication of its duration if limited.

Investment objectives and restrictions

2. Details of investment objectives and policy, including summary of the investment and borrowing restrictions.

If the nature of the investment policy so dictates, a warning that investment in the scheme is subject to abnormal risks, and a description of the risks involved.

Operators and principals

3. The names and registered addresses of the following parties, where applicable:

- (a) the directors of the asset management company;
- (b) the trustee;
- (c) Foreign promoters, if any;
- (d) the distribution company;
- (e) the auditor;
- (f) the registrar; and
- (g) the legal adviser.

Characteristics of units

4. Minimum investment, if any.
5. A description of the different, type of units.
6. Frequency of valuation and dealing, including days.
7. Application and redemption procedures.
8. The mode of the unit price announcement.
9. Procedure for subscribing/redeeming/conversion of units.
10. The maximum interval between the request for redemption and the payment of the redemption proceeds.
11. A summary of the circumstances in which dealing in units may be deferred or suspended.
12. It must be stated that no money should be paid to any intermediary except the unit holder or his authorized representative.

Distribution policy

13. The distribution policy indicating the time period for distribution of dividend.

Fees and charges

14. (A) the level of all fees and charges payable by an investor, including all charges levied on subscription and redemption and conversion, and
 - (b) The level of all fees and charges payable by the scheme, including management fee, advisory fee, trustee fee and preliminary and/or floatation expenses.

Taxation

15. Details of exemptions, taxes levied on the scheme's income and capital including tax, if any, deductible on distribution to unit holders.

Reports and accounts

16. The date of the scheme's financial year.
17. Particulars of the reports to be sent to the unit holders.

Warnings

18. The following statements or warnings must be prominently displayed in the offering documents: -

(a) If you are in any doubt about the contents of this offering document, you should consult your stock-broker, bank manager, legal adviser or other financial adviser.

(b) A warning that the price of units and the income from them (where income is distributed) may go down as well as up.

General information

19. A list of constitutive documents and the address where they can be inspected free of charge or purchased.

20. The date of publication of the offering document.

21. A statement that the asset management company accepts responsibility for the information contained in the offering document as being accurate at the date of publication.

22. Details of schemes not authorized must not be shown in the offering document.

Termination of scheme

23. A summary of the circumstance in which the scheme can be terminated.