



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN
NIC Building, Jinnah Avenue, Blue Area, Islamabad

Before the Commissioner (Securities Market Division)

**In the matter of Show Cause Notice dated 12.10.2004 issued to
Pakistan Industrial Credit and Investment Corporation Limited (PICIC)**

Date of Hearing:

November 10, 2004

Present at the hearing:

Representing PICIC:

- (i) Mr. Iqbal L. Bawaney
- (ii) Mr. Muhammad Farid Alam

Legal Counsel
Executive Vice President

Assisting the Commissioner (SM):

- (i) Mr. Imran Inayat Butt
- (ii) Mr. Junaid Mirza

Director (SM)
Assistant Director (SM)

ORDER

1. This matter arises out of the Show Cause Notice No. 1(14)PICIC/MSW/SMD/2004/011 dated October 12, 2004 issued by the Securities and Exchange Commission of Pakistan (the "Commission") to the Pakistan Industrial Credit & Investment Corporation Limited ("PICIC").

2. Facts of the case are that on June 25, 2004, the trading activities in PICIC Investment Fund ("PIF") and PICIC Growth Fund – formerly ICP SEMF ("PGF") were observed to be unusual and abnormal, both in terms of price movement and turnover. The price of PIF was in the range of Rs. 17.35 and Rs. 17.70 during most part of the day. However, abnormal turnover of 1,418,000 certificates (73% of the total turnover of the day) was observed in the last three

minutes of the closing of the market which increased the certificate price from Rs. 17.50 to Rs. 18.95 and the PIF closed at its day high. Similarly, the price of PGF was in the range of Rs. 45.40 and Rs. 46.40 during most part of the day. However, unusual turnover of 1,175,500 certificates (21% of the total turnover of the day) was observed in last three minutes of the closing of the market which caused the price of PGF to rise by Rs. 1.50 to Rs. 47.50.

3. The Commission obtained the details of trading which took place in the certificates of PIF and PGF from the Karachi Stock Exchange (“KSE”) in order to determine the causes for such abrupt increase in their prices and turnover on 25 June 2004. Based on the information received from the KSE and subsequent information received from the members of the KSE, it was revealed that PICIC actively traded in the certificates of PIF and PGF on 25 June 2004. Moreover, it was also observed that PICIC was the major buyer in the last three minutes of the trading session. PICIC bought 1,480,500 certificates (76% of total turnover) of PIF on 25 June 2004 including 1,387,500 certificates in the last three minutes before the closing of market pushing the price up from Rs. 17.50 to Rs. 18.95. Similarly PICIC also bought 1,303,500 certificates (23% of total turnover) of PGF including 1,032,000 certificates in the last three minutes before the closing of the market through First Equity Modaraba which caused the price to soar from Rs.46.00 to Rs. 47.50.

4. PICIC sold 49,155,672 certificates of PIF @ Rs. 18.95 and 12,600,000 certificates of PGF @ Rs. 47.50 from its portfolio to its newly established PICIC Asset Management Company Ltd (“PICIC-AMC”) as reported in the KSE cross transactions of 28 June, 2004 (market being closed on 26th & 27th June 2004). The purchase of certificates of PIF and PGF by PICIC in above mentioned manner, prima facie, showed that PICIC was engaged in a series of transactions in the certificates of PIF and PGF on 25 June 2004 in a manner that it gave the appearance of active trading by pushing the prices up with a view to induce others. Later on 28 June 2004 PICIC sold 49,155,672 certificates of PIF and 12,600,000 certificates of PGF to PICIC-AMC at the closing market rates of 25 June 2004. The above mentioned conduct by PICIC, prima facie, appeared to be violation of Section 17 of the Securities and Exchange Ordinance, 1969 (the Ordinance). Consequently, a show cause notice dated October 12, 2004 was served on PICIC calling upon to

show cause as to why action may not be taken against PICIC under Section 17 of the Securities and Exchange Ordinance, 1969 for the aforesaid violation.

5. The hearing was fixed on October 21, 2004 which was changed to November 10, 2004 on the request of Legal Counsel of PICIC. On the date of hearing, Mr. Iqbal L. Bawaney, Legal Counsel of PICIC and Mr. Muhammad Farid Alam, Executive Vice President of PICIC appeared before me. Further they also submitted their reply to the show cause notice in writing. In their written statement as well as during the course of arguments the legal counsel of PICIC stated that:

(a). There has been no violation whatsoever of Section 17 of the Securities & Exchange Ordinance, 1969 and PICIC honestly believes that the show cause notice is based on some misconception.

(b). PICIC had acquired the Management Rights in respect of ICP Lot-B Mutual Funds and ICP-SEMF, through the Privatization Commission. Separate management rights transfer agreement (MRTA) had been executed for ICP Lot-B Mutual Funds and for ICP-SEMF among Investment Corporation of Pakistan (ICP), PICIC and the Privatization Commission. Under the MRTAs and the NBFC Rules, PICIC was required to hold 10% to 20% certificates each of ICP Lot-B Mutual Funds and ICP-SEMF. Additionally, PICIC, as a financial Institution has been making substantial investments in securities from time to time, which also included the certificates of ICP Lot-B Mutual Funds and ICP-SEMF, as part of its own investment portfolio. With a view to strengthen its own portfolio, PICIC purchased additional 1,480,500 certificates of PIF and 1,303,500 certificates of PGF through stock brokers. Bulk of these certificates are still held by PICIC on its own account since out of that total holding of 99,552,616 certificates of PIF held by PICIC as on June 26, 2004, PICIC transferred only 49,155,672 certificates of PIF to PICIC-AMC. Likewise, out of its total holding of 19,829,987 certificates of PGF as on June 26, 2004, PICIC transferred only 12,600,000 certificates of PGF to PICIC-AMC. After these transactions, PICIC continued to hold 50,396,944 certificates of PIF and 7,229,987 certificates of PGF.

(c). The SECP's contention that the above transaction gave the appearance of active trading by pushing the prices with a view to induce others, as mentioned in PARA 7 of the Show Cause Notice and on which premise alone, the Show Cause Notice has been based, is factually as well as legally incorrect. PICIC had made these purchases bonafidely, in good faith and in the normal course of its business. Mere purchase of securities at a stock exchange, can by no stretch of imagination be considered as giving appearance of active trading in such securities. By the same token, it cannot be taken for granted that rise in the prices of such securities tantamount to deliberate pushing up of their prices by the purchaser. In the instant case, neither PICIC had any such intentions, nor there is any evidence to that effect. It is quite a natural phenomenon that if a sizeable quantity of a scrip is purchased at a stock exchange, the market price is bound to rise and such price variation cannot be termed as artificial. Fluctuations of prices of scrips at stock exchanges are based on demand and supply factors and the prices tend to rise with the turnover. Such factors, in turn are attributable to the performance of the companies, the operating results, the future prospects and above all the market sentiments and economic factors. Therefore, it does not mean that a legitimate investor cannot purchase sizeable quantity of scrip merely because it would tend to push up its price. If a contrary view is taken, then it would undermine the very concept of stock exchanges as open regulated markets for sale and purchase of securities all over the globe.

(d). Section 17 of the S&E Ordinance, which has been invoked by the SECP does not prohibit an investor from purchasing securities at a stock exchange, when its price is rising and neither Section 17 requires an investor to stop buying such securities when its price starts to increase. It was also stated by the legal counsel of PICIC that Section 17 would be attracted only if the acts enunciated in sub-paras (a) to (e) thereof are done with a view to induce others to purchase such securities as specifically mentioned by the SECP itself in para 7 of the Show cause Notice. Neither PICIC had any intentions of inducing others to purchase the certificates of PIF and PGF, nor any other person was induced by PICIC to purchase the subject certificates. In the absence of such evidence to the effect, no such charge can be leveled against PICIC of having violated section 17 of the Ordinance.

(e). The prices of certificates of PIF and PGF keep on fluctuating on day to day basis and cannot be expected to remain static. During the course of hearing Mr. Muhammad Farid Alam, Executive Vice President of PICIC stated that PICIC was required to transfer specific number of shares of PIF and PGF at actual market price by 30 June 2004. He further stated that price of PGF is closely linked with the share price of Pakistan State Oil (“PSO”) due to the substantial holding of PSO shares in PGF portfolio and increase in price of PSO leads to a price increase in PGF.

Concluding his arguments, the Legal Counsel of PICIC stated that PICIC is a reputable institution and it never gave appearance of active trading nor PICIC pushed up the prices of PIF and / or PGF. He further stated that he is convinced that PICIC has not committed any violation of Section 17.

6. I have heard the arguments of the legal counsel of PICIC and also of Mr. Farid Alam. I tend to agree with the argument of PICIC Legal Counsel that stock market is a dynamic place and that share price move up or down based on several factors. Further there is no bar on legitimate investor buying sizable quantity of shares in a rising market. At the same time I am fully conscious of the fact that no market participant can be allowed to induce or in any manner influence or turning to his advantage or to manipulate the price of any security.

7) I have analysed the transaction of PIF and PGF on 25 June 2004, the details of which are given in table A and Table B below:

PICIC Investment Fund (PIF)

Table A

Time Range	Turnover (In million)	High (In Rs.)	Low (In Rs.)	Price Range	%change	PICIC 's	
						Buy	Sell
09:37...10:27	0.109	17.70	17.45	0.25	1.41%	Nil	Nil
10:28... 14:42	0.292	17.70	17.35	0.35	1.98%	Nil	Nil
14:49... 15:51	0.129	17.50	17.35	0.15	0.86%	0.093	Nil
15:57... 15:58	0.179	17.50	17.50	0.00	0.00%	0.159	Nil
At 15:59	1.239	18.95	17.50	1.45	7.65%	1.229	0.030
Total	1.948					1.480	0.030

PICIC Growth Fund (PGF)**Table B**

Time Range	Turnover (In million)	High (In Rs.)	Low (In Rs.)	Diff	%change	PICIC Purchases	PICIC Sell
09:30 ... 10:30	1.384	46.25	45.40	0.85	1.84%	Nil	Nil
10:30..... 11:30	0.701	46.20	45.80	0.40	0.87%	Nil	Nil
11:30---- 14:47	0.798	46.40	45.85	0.55	1.19%	Nil	Nil
14:48 ... 15:03	0.224	46.00	45.75	0.25	0.54%	0.080	-
15:04 ... 15:08	0.093	46.10	46.00	0.10	0.21%	Nil	-
15:08 ... 15:29	0.440	46.10	45.65	0.45	0.97%	0.040	0.055
15:30 ... 15:44	0.181	46.10	45.75	0.35	0.76%	0.053	0.019
15:45 ... 15:56	0.668	46.10	45.85	0.25	0.54%	Nil	0.053
15:57 ... 15:58	0.071	46.00	45.85	0.15	0.32%	0.054	-
15:57 ... 16:00	1.099	47.50	46.00	1.50	3.51%	1.077	-
Total	5.657					1.304	0.127

A perusal of Table A would reveal that the first trade in PIF took place at 9:37 a.m. During the period 9:37 – 10:27, the turnover in PIF was recorded as 0.109 million at price ranging between Rs. 17.45 to Rs. 17.70. PICIC was not found indulged in trading activity during this time period. The overall trading pattern in these 50 minutes was normal.

During 10:28 – 14:42, 0.292 million certificates of PIF were traded. The scrip moved within trading band of Rs. 17.30 to Rs.17.70. PICIC had no participation in trading during this time. Overall trading during this period was normal.

During 14:49 – 15:51 p.m., 0.129 million certificates of PIF were traded and price of the scrip fluctuated between Rs. 17.35 to Rs.17.50. PICIC purchased 0.093 million certificate during these three minutes. A normal trading pattern was observed during this period.

During 15:57 – 15:58 p.m., turnover of 0.179 million certificates of PIF was recorded at Rs.17.50. PICIC bought 0.159 million certificate. The trading pattern during this period was normal.

At the last minute of the trading the total turnover in PIF certificate was 1.239 million of which 1.229 million certificates were bought by PICIC and 0.030 million certificates were sold by PICIC. The buying and selling by PICIC during this last minute was 99% of the last minute turnover. During the last minute not only abnormally high turnover was witnessed but abnormal price fluctuation was also observed.

An analysis of the last minute trades reveal that the price of the certificate moved up from Rs. 17.50 to close at Rs. 18.95, depicting an increase of Rs. 1.45. The abnormal activities both in terms of price and volume were mainly induced by PICIC through a series of transactions. The last minute transactions by PICIC can in no way be termed as normal. The intention was clearly of pushing the price up and that is why the last minute was selected to achieve the target.

A perusal of Table B would reveal that the total turnover in PGF on 25 June 2004 was 5.657 million certificates. During 0930 am to 1447 p.m. 2.883 million certificates traded in the market at price ranging from Rs. 45.40 to Rs. 46.40. Most of these transactions were executed below Rs. 46.00. During this period no buying activity by PICIC was observed. The overall trading pattern appeared normal.

During the period 1448-1503 p.m., 0.224 certificates of PGF were traded within the price range of Rs. 45.75 to Rs. 46.00 of which PICIC bought 0.080 million certificates. During 1504 p.m. to 1508 p.m., 0.093 certificates of PGF were traded. PICIC did not buy any share during this period. The overall trading pattern during this period was also normal.

From 1508 p.m. to 1529 p.m., 0.440 million certificates of PGF were traded within the price range of Rs. 45.65 to Rs.46.10. PICIC bought 0.040 million certificate and sold 0.055 million certificates. During 1530 – 1544 p.m., 0.181 million certificates of PGF were traded within the price range of Rs. 45.75 to Rs. 46.10 of which PICIC bought 0.053 million certificates. From 1545-1556 p.m. 0.668 million certificates of PGF were traded in the price range of Rs. 45.85 to Rs. 46.10. Out of these PICIC sold 0.054 million certificates. During this period trading pattern was also normal.

During 1557-1558 p.m. the share price of PGF was in the range of Rs. 45.85 – Rs. 46.00 with turnover of 0.071 million. Of this PICIC purchased 0.054 million certificates. The overall trading pattern was normal. All of a sudden, at the last minute of the day (i.e. 1559 p.m.), an aggressive buying was observed in the certificates of PGF. During the last minute i.e. 1559 p.m. 1.099 million certificates of PGF were traded in the price range of Rs. 46.00 to Rs. 47.50 of which PICIC bought 1.077 million certificates which is about 98% of the total trades. The rate of PGF

was Rs. 47.50 by the close of 25 June 2004. The increase in PGF certificate prices as well as turnover was totally abnormal as compared to the rest of the day's trading. A close analysis of individual trades in the last minutes reveal that deliberate attempt was made in the last minute to push the price up to a certain target level.

After detailed analysis of trades carried out by PICIC in PIF & PGF on 25 June 2004, it is evident that PICIC has avoided trading for most part of the trading time when certificates were available at favourable price. The decision of PICIC to buy aggressively in the last minutes by pushing the price up clearly shows that objective was not buying of certificates in normal course but to push the price up in the last minutes to achieve some other objective. This is a clear case of price manipulation.

The argument that PICIC had been buying the scrips of PIF & PGF in their usual course of business is, therefore, not tenable in view of the fact that:

- a) Bulk of the buying in PIF and PGF was on the last minute before closing;
- b) the KSE 100 index lost 45 points while rate of PIF increased by Rs. 1.50 and that of PGF by Rs. 1.85 due to aggressive buying by PICIC by pushing the price upward through a series of transactions.
- c) while share price of PSO went down by Rs. 1.80, the price of PGF went up by Rs. 1.85. This behaviour of PGF totally negates the argument put forward by Mr. Farid that price of PGF is wholly dependant on PSO.

8. After successfully pushing the price upward in PIF and PGF in a manipulative manner, PICIC sold 49,155,672 certificates of PIF and 12,600,000 certificates of PGF on 28 June 2004 at closing market price of 25 June 2004 to PICIC-AMC. The transaction was also reported to KSE on June 28, 2004 as a cross transaction (market being closed on June 26th and 27th, 2004). PICIC-AMC is wholly owned subsidiary of PICIC and PICIC-AMC had to acquire certain percentage of the holding of PIF and PGF from PICIC as per the requirement of the NBFC Rules, 2003.

I have no doubt in my mind that the main purpose of PICIC buying in PIF & PGF on 25 June by pushing prices up in the last minute was to sell substantial quantity of PIF & PGF certificates to

PICIC-AMC. In the process PICIC has made profit around Rs. 97 million due to price increase only.

9. A perusal of trading activity by PICIC as is shown in tables A & B above clearly indicate that PICIC was certainly involved in a series of transactions in PIF and PGF in the last few minutes before closing, creating the appearance of active trading in these securities. The act of PICIC while trading in PIF and PGF in the closing minute is indication of not only creating the impression of active trading but also of pushing the prices of PIF and PGF upward for its own advantage.

10. I have also analysed that price movement as well as turnover of PIF and PGF during the period from 22 June 2004 to 30 June 2004 which are given in Table C & D.

Pakistan Income Fund

Table C

<u>Date</u>	<u>Rate</u>						<u>Turnover</u>
	<u>Opening</u>	<u>Closing</u>	<u>Diff</u>	<u>High</u>	<u>Low</u>	<u>Average</u>	<u>Total</u>
22-Jun	16.90	16.70	(0.20)	17.70	16.50	17.08	1,275,500
23-Jun	16.70	17.00	0.30	17.00	16.50	16.70	925,000
24-Jun	17.00	17.45	0.45	17.50	16.75	17.22	529,500
25-Jun	17.45	18.95	1.50	18.95	17.35	17.75	1,948,000
28-Jun	18.95	18.10	(0.85)	18.85	17.95	18.07	2,152,000
29-Jun	18.10	17.85	(0.25)	18.30	17.85	18.04	1,000,500
30-Jun	17.85	18.00	0.15	18.15	17.85	18.03	901,500

Pakistan Growth Fund

Table D

<u>Date</u>	<u>Rate</u>						<u>Turnover</u>
	<u>Opening</u>	<u>Closing</u>	<u>Diff</u>	<u>High</u>	<u>Low</u>	<u>Average</u>	<u>Total</u>
22-Jun	45.15	44.85	(0.30)	45.60	44.35	45.06	1,943,000
23-Jun	44.85	45.15	0.30	45.40	44.45	44.92	1,133,000
24-Jun	45.15	45.65	0.50	45.95	45.15	45.50	3,238,500
25-Jun	45.65	47.50	1.85	47.50	45.40	46.07	5,657,500
28-Jun	47.50	48.00	0.50	48.55	46.35	47.63	8,830,500
29-Jun	48.00	47.35	(0.65)	48.25	47.30	47.78	3,088,000
30-Jun	47.35	47.25	(0.10)	47.65	47.05	47.37	1,206,000

A perusal of Table C & D would reveal that abnormal price fluctuation and turnover was observed in the certificates of PIF and PGF on 25 June 2004 and in the turnover on 28 June 2004.

I have also noticed that PICIC sold 49.156 million certificates of PIF @ Rs. 18.95 and 12.600 million certificates of PGF @ Rs. 47.50 to PICIC Asset Management Company. Due to the purchase of PIF & PGF certificates by PICIC, there was a perception in the market on 28 June 2004 that PICIC has bought substantial quantities of PIF and PGF from the market thus inducing the general public to purchase the certificates of both the mutual funds which is evidenced by the massive turnover of 8.8 million in PGF and 2.1 million in PIF on 28 June 2004. However, when the market participants came to know that PICIC has sold substantial quantity of PIF and PGF to its Asset Management Company on 28 June 2004 through cross transaction, the market reacted negatively and prices and turnover in PIF & PGF declined on 29 June 2004 as shown in Table C & D above. Such attempts to generate artificial turnover and price movement leads to inducing unsuspecting innocent investor to trade in that scrip. This is detrimental to the interest of small investors as well as development of a fair and transparent market. It is, therefore, important for the protection of investors, particularly general public investors and to ensure a fair and transparent functioning of the stock market that such erring market participant be punished.

11. PICIC has indulged in trading of PIF and PGF in a manner, which influence the market and the prices of these certificates, to turn to its advantage. Further this trading by PICIC induced others to trade in the said certificates. I am convinced that this act of PICIC operated as fraud, deceit and manipulation on innocent investors, in terms of section 17 of the Ordinance. In the light of the above findings, I in exercise of powers conferred upon me in terms of Section 24 of the Securities and Exchange Ordinance, 1969 impose a fine of Rs. 500,000 (Rupees five lac only) on PICIC. PICIC is directed to deposit the said fine in the designated bank account maintained in the name of Securities and Exchange Commission of Pakistan with Habib Bank Limited within 30 days of the date of this order.

12. The Order is being issued without prejudice to any or all actions that may be required to be taken under the law against PICIC, its individual director(s)/officers(s) or any other person involved in violation of any other securities laws and any other relevant laws which may have been committed.

(Shahid Ghaffar)
Commissioner (Securities Market)

Announced
Islamabad on 31st December 2004