



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
SPECIALIZED COMPANIES DIVISION

No. SC/M/RS/PR/2004-666

January 28, 2004

CIRCULAR NO. 4 OF 2004

Subject: Prudential Regulations for Modarabas

The Securities and Exchange Commission of Pakistan (SEC) has revised the existing Prudential Regulations for Modarabas issued vide Circular No. 5/2000 dated April 20, 2000 and subsequent amendments made therein vide Circular No. 20 of 2000 dated December 21, 2000 and Circular No. 4 of 2001 dated June 14, 2001.

All the Modaraba Companies are hereby directed to conduct all business transactions undertaken by the modarabas in conformity with the revised Prudential Regulations enclosed herewith as Prudential Regulations for Modarabas (the "Regulations"). These Regulations shall come into force with immediate effect.

These Regulations are being issued in supercession of this office Circular No. 5/2000 dated April 20, 2000, Circular No. 20 of 2000 dated December 21, 2000 and Circular No. 4 of 2001 dated June 14, 2001. However, it is clarified that the modaraba companies shall continue to submit all the information, returns and statements etc. in the same manner and format as previously prescribed vide circular No.10/2000 dated August 10, 2000.

Modaraba Companies are advised to ensure circulation of Regulations among all their officers/branches for meticulous compliance in letter and spirit. Any violations or circumvention of these Regulations shall be dealt with under the provisions of the Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980.

The new set of Regulations has also been placed on SEC Website www.secp.gov.pk for information of the concerned quarters and general public.

Please acknowledge receipt.

(Akbar Shah)
Registrar

Modaraba Companies and Modarabas

Distribution:

1. Chief Executives of all Modaraba Companies.
2. Managing Directors of all Stock Exchanges
3. The Chairman, Modaraba Association of Pakistan
4. The Institute of Chartered Accountants of Pakistan, Karachi.
5. The Institute of Cost and Management Accountants of Pakistan, Karachi.
6. Office copy.

PRUDENTIAL REGULATIONS FOR MODARABAS

1. Short title and commencement: - (1) These additional conditions shall be deemed to be part of the conditions of the certificate granted for authorization to float a modaraba in terms of powers conferred by Section 11 of the Modaraba Companies and Modaraba (Floatation & Control) Ordinance, 1980 read with rule 3 (2) (e) of Modaraba Companies and Modaraba Rules, 1981 and may be called as Prudential Regulations for Modarabas.

(2) These regulations shall be applicable at once.

Part - I

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

- (a) **Borrower** includes a person on whom a modaraba has taken any exposure during the course of business.
- (b) **Contingent liability** means:
 - (i) a possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the enterprise; or
 - (ii) a present obligation that arises from past events but is not recognized because:
 - (a) it is not probable that an outflow of resources embodying economic benefits will be required to settle the obligation; or
 - (b) the amount of the obligation cannot be measured with sufficient reliability;and includes letters of credit, letters of guarantee, bid bonds / performance bonds, advance payment guarantees and underwriting commitments.
- (c) **Documents** include vouchers, cheques, bills, pay-orders, promissory notes, securities for leases / advances and claims by or against the modaraba or any other record / papers supporting entries in the books of a modaraba.
- (d) ¹**Equity** includes paid-up modaraba fund, general reserves, statutory reserves, balance in share premium account, reserve for issue of bonus modaraba certificates, subordinated funds and unappropriated profits/losses:

¹ Addition through circular No. SC/M/PRDD/PRs/2017-259 dated December 11, 2017.

(deleted) Equity includes paid up fund, reserves, balance of premium account and un-appropriated profits/accumulated losses excluding deferred tax reserves, surplus on revaluation of fixed assets accounts as described in section 235 of the Companies Ordinance, 1984 and treasury stocks.

Explanation:

- i. *Surplus on revaluation of fixed assets, treasury stocks, intangible assets, deferred tax reserves and surplus on revaluation of investments shall not be included in the equity.*
- ii. *A fund may be classified as subordinated fund if it complies with the following conditions:*
 - (a) *subordinated fund is raised from the sponsors, directors or modaraba company;*
 - (b) *rate of share of profit on subordinated fund, if any shall be decided by the Modaraba subject to the clearance of Registrar Modaraba;*
 - (c) *neither the profit nor the principal shall be paid even at maturity if such payment would result in non-compliance with the equity or capital adequacy requirements.*
 - (d) *subordinated fund shall be un-secured and sub-ordinate to all other indebtedness including funds raised through Certificates of musharakah;*
 - (e) *subordinated fund shall be in the form of cash or liquid assets only;*
 - (f) *auditor has issued a certificate evidencing injection of funds into modaraba as subordinated fund;*
 - (g) *minimum tenor of subordinated fund shall be specifically mentioned; and*
 - (h) *prior approval of the Registrar is required for repayment of subordinated fund.*
- iii. *For the purpose of calculating minimum equity requirements, the exposure of a modaraba in its subsidiaries and strategic investments shall be deducted from equity;*

Provided that the equity investment in subsidiary and strategic investment shall be taken at cost.

- (e) **Equity of the Borrower** includes paid-up capital, general reserves, balance in share premium account, reserve for issue of bonus shares and retained earnings / accumulated losses, revaluation reserves on account of fixed assets and subordinated loans.

Explanation: Revaluation reserves will remain part of the equity for first three years only, from the date of asset revaluation, during which time the borrower will strengthen its equity base to enable it to avail facilities without the benefit of revaluation reserves.

- (f) **Exposure** includes facilities and subscription to or investment in shares.

Explanation: Secured exposure means exposure backed by tangible security and any other form of security with appropriate margins (in cases where margin has been prescribed by SEC, appropriate margin shall at least be equal to the prescribed margin). Clean exposure means exposure without any security or collateral.

- (g) **Facility** includes a financing 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;

- (h) **Financial Institutions** includes, –

- (a) a company or an institution whether established under any special enactment and operating within or outside Pakistan which transacts the business of banking or any associated or ancillary business through its branches;
- (b) a modaraba, leasing company, investment bank, venture capital company, financing company, housing finance company, a non-banking finance company and bank or any institution duly licensed by State Bank of Pakistan; and
- (c) such other institution or companies authorised by law to undertake any similar business, as the Federal Government may, by notification in the official Gazette, specify for the purpose;

- (hh) ¹*Fit and Proper Criteria means the criteria specified in Part IV of these Regulations;*

- (hhh) *Key Executives includes the chief executive officer, chief financial officer, chief accounting officer, chief operating officer, company secretary, internal auditor or the **compliance officer** irrespective of their designation;*

¹ Amendments made vide circular No. 10 of 2008, dated June 2, 2008

- (i) **Forced Sale Value (FSV)** means the value which fully reflects the possibility of price fluctuations and can currently be obtained by selling the mortgaged / pledged/ leased/collaterally held assets in a forced / distressed sale condition.
- (j) **Government Securities** include monetary obligations of the Federal Government or a Provincial Government or of a Corporation wholly owned or controlled, directly or indirectly, by the Federal Government or a Provincial Government and guaranteed by the Federal Government and any other security as the Federal Government may, by notification in the Official Gazette, declare, to the extent determined from time to time, to be Government Securities.
- (k) **Group** means persons, whether natural or juridical, if one of them or his family members including spouse, lineal ascendants and descendants and brothers and sisters or its subsidiary, have control or hold substantial ownership interest or have power to exercise significant influence over the other. For the purpose of this:
 - (i) **Subsidiary** will have the same meaning as defined in sub-section 3(2) of the Companies Ordinance, 1984 i.e. a company or a body corporate shall be deemed to be a subsidiary of another company if that other company or body corporate directly or indirectly controls, beneficially owns or holds more than 50% of its voting securities or otherwise has power to elect and appoint more than 50% of its directors.
 - (ii) **Control** refers to an ownership directly or indirectly through subsidiaries, of more than one half of voting power of an enterprise.
 - (iii) **Substantial ownership / affiliation** means beneficial share holding of 10% by a person and/or by his family members including spouse, lineal ascendants and descendants and brothers and sisters.

Significant influence refers to the management control of the company, to participate in financial and operating policies, either exercised by representation in the Board of Directors, partnership or by statute/ agreement in the policy making process or affiliation or material inter- company transactions.

- (l) **Liquid Assets** are the assets which are readily convertible into cash without recourse to a court of law and mean encashment / realizable value of government securities, bank deposits, shares of listed companies which are actively traded on the stock exchange, NIT Units, certificates of mutual funds, Certificates of Investment (COIs)/Certificates of Deposits (CODs) issued by DFIs / modarabas and Certificates of Musharika (COMs) issued by modarabas rated at least 'A' by a credit rating agency registered with the SEC, listed TFCs and Commercial Papers rated at least 'A' by a credit rating agency registered with the SEC, National Saving Scheme securities and units of open ended schemes for which a duly licensed asset management company quotes daily offer and bid rates. These assets with appropriate margins should be in possession of the modarabas with perfected lien.

- (m) **Lease Key Money** includes lease security deposit.
- (n) **Major Shareholder** of a modaraba means any person holding 10% or more of the share capital of a modaraba either individually or in concert with family members.
- (o) **Medium and Long-Term Facilities** mean facilities with maturities of more than one year.
- (p) **Other Form of Security** means hypothecation of stock (inventory), assignment of receivables, lease rentals, contract receivables, etc.
- (q) **Readily Realizable Assets** include liquid assets and stocks pledged with the modarabas and are in their possession, with 'perfected lien' duly supported with complete documentation.
- (r) **Rentals** include lease rentals, rentals in respect of housing finance facilities, hire purchase installments or any other amount received by modaraba from borrower against the grant of facility.
- (s) **Short Term Facilities** mean facilities with maturities up to one year
- (t) **Subordinated Loan** means an unsecured loan extended to the borrower by its sponsors, subordinate to the claim of the modaraba taking exposure on the borrower and documented by a formal sub-ordination agreement between provider of the loan and the borrower. The loan shall be disclosed in the annual audited financial statements of the borrower as subordinated loan.
- (u) **Tangible Security** means readily realizable assets, mortgage of land, plant, building, machinery and any other fixed assets.
- (v) **Underwriting Commitments** mean commitments given by modarabas to the limited companies at the time of new issue of equity / debt instrument, that in case the proposed issue of equity/debt instrument is not fully subscribed, the un-subscribed portion will be taken up by them (modarabas).

(2) All terms and expressions used but not defined in these regulations shall have the same meanings as in the Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980 (Ordinance XXXI of 1980) and the Companies Ordinance 1984 (XLVII of 1984).

PART – II

(A) Corporate Borrowers

1. Limit on modaraba's exposure to a single person. -(1) The total outstanding exposure by a modaraba to any single person shall not at any point in time exceed 30% of the modaraba's equity (as disclosed in the latest audited financial statements), subject to the condition that the maximum outstanding against fund-based exposure does not exceed 20% of the modaraba's equity.

(2) The total outstanding exposure by a modaraba to any group shall not exceed 50% of the modaraba's equity (as disclosed in the latest audited financial statements), subject to the condition that the maximum outstanding against fund-based exposure does not exceed 35% of the modaraba's equity.

(3) In arriving at exposure under this Regulation:

- a) 100% of the deposits placed with lending modaraba and TFCs, having investment grade credit rating by a rating agency registered with the SEC, of the lending modaraba shall be excluded.
- b) 90% of the following shall be deducted;
 - (i) deposits with another financial institution under perfected lien;
 - (ii) encashment value of Government Securities and National Saving Scheme securities, lodged by the borrower as collateral; and
 - (iii) Pak. Rupee equivalent of face value of Special US Dollar Bonds converted at inter-bank rate, lodged by the borrower as collateral.
- c) 85% of the unconditional financial guarantees, payable on demand, issued by a financial institution rated at least 'A' by a credit rating agency registered with the SEC, accepted as collateral by modarabas shall be deducted.
- d) 75% of listed Term Finance Certificates held as security with duly marked lien shall be deducted. The TFCs to qualify for this purpose should have been rated at least 'A' or equivalent by a credit rating agency registered with the SEC.
- e) Weightage of 50% shall be given to;
 - (i) guarantees / bonds other than financial guarantees;
 - (ii) underwriting commitments.
- f) The following different weightages will be applicable to exposure taken against financial institutions in respect of placements:
 - (i) 10% weightage on exposure to financial institutions with 'AAA' rating.
 - (ii) 25% weightage on exposure to financial institutions rated 'A' and above.
 - (iii) 50% weightage on exposure to financial institutions rated 'BBB' and above.

- (4) For the purpose of this regulation, exposure shall not include the following:
- (i) Obligations under letters of credit and letters of guarantee to the extent of cash margin held by the modarabas.
 - (ii) Letters of credit, which do not create any obligation on the part of the modarabas (no liability L/C) to make payments on account of imports.
 - (iii) Facilities provided to financial institutions through REPO transactions with underlying SLR eligible securities
 - (iv) Pre-shipment / post-shipment credit provided to finance exports of goods covered by letter of credit/firm contracts including financing provided from the Modaraba's own resources.
 - (v) Letters of credit established for the import of plant and machinery.

2. Minimum conditions for grant of financing facilities. - (1) When considering proposals for fund/non-fund based facility exceeding one million rupees, modarabas should give due weightage to credit report relating to the borrower and his group obtained from Credit Information Bureau of the State Bank of Pakistan. If the credit report indicates over-exposure/default, the facilities shall be extended only after recording reasons to do so.

(2) While granting any facility to the customers other than individuals, modaraba shall obtain copy of accounts relating to the business of each of its borrower for analysis and record in the following manner, namely:-

(a) where the exposure does not exceed one million rupees.	Such documentary evidence of the means and investment of the borrower as may be determined by the management of the modaraba.
(b) where the exposure exceeds one million rupees but does not exceed two million rupees	Accounts duly signed by the borrower
(c) where exposure exceeds two million rupees but does not exceed ten million rupees.	Accounts duly signed by the borrower and counter signed by: (i) a chartered accountant; or (ii) 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.
(d) 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 other than a public company or a private company which is a subsidiary of a public company.
Explanation: In case of individuals, modaraba shall obtain such documentary evidence of the means and investment of the borrower such as wealth statement, statement of assets and liabilities or any other statement as may be considered appropriate by the management of the modaraba.	

(3) Every modaraba shall, before providing any facility (including renewal, enhancement and rescheduling/restructuring), ensure that the Loan Application Form prescribed/devised by a modaraba is accompanied with a "Borrower's Basic Fact Sheet" as per **Annexure-I**. Modaraba shall also ensure that the information requested in the Basic Fact Sheet is provided by the borrower under his seal and signature.

3. Linkage between a borrower's equity and total exposure from financial institutions.— (1) While taking any exposure, modarabas shall ensure that the total exposure availed by any borrower from financial institutions does not exceed 10 times of borrower's equity as disclosed in its financial statements.

(2) For the purpose of this regulation, subordinated loans shall be counted as equity of the borrower. Modarabas should specifically include the condition of subordinated loan in their Offer Letter. The subordination agreement to be signed by the provider of the subordinated loan, should confirm that the subordinated loan will be repaid after that modaraba's prior approval.

4. Financial indicators of the Clients: ¹*At the time of allowing fresh exposure/enhance/renewal, the Modaraba shall ensure that the current assets to current liabilities ratio of the client is not lower than such ratio as may be required under the credit policy of the Modaraba. Modarabas shall prescribe the minimum current ratio under the credit policy keeping in view the quality of the current assets, nature of the current liabilities, nature of industry to which client belongs to, average size of current ratio of that industry, appropriateness of risk mitigates available to the Modarabas etc. It is expected that Modarabas' credit policy duly approved by the Board of Directors of the Modaraba Company, shall emphasize higher credit standards and provide full guidance to the management about the current ratio requirements for various categories of clients and corresponding risk mitigates etc. acceptable to the Modarabas."*

(2) This regulation shall not apply to the facilities granted to financial institutions with investment grade rating by a credit rating agency registered with SEC or in case of exposure fully secured against liquid assets held as collateral. Export finance and finance provided to ginning and rice husking factories shall also be excluded from the borrowings (exposure) for the purpose of this regulation.

5. 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 mobilization advance, the condition of 100% cover of realizable securities may be relaxed subject to the following conditions, namely:
 - (i) Guarantees issued shall contain a clause that the mobilization advance shall be released by the beneficiary through the guarantor modaraba only; and
 - (ii) At the time of issuing such a guarantee the beneficiary shall sign an agreement with the modaraba that releases out of mobilization advance would be covered by realizable assets; and

¹ Amended vide circular No. 16 of 2005 dated September 22, 2005

~~Deleted: (1) It is expected that at the time of allowing fresh exposure/enhancement / renewal, the current assets to current liabilities ratio of the borrower shall not be lower than 1:1. However, in exceptional cases, Modarabas may relax this ratio up to 0.75:1 if they are satisfied that appropriate risk control measures have been put in place."~~¹

And now Substituted vide Circular No. 17 of 2018 dated September 24, 2018

- (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) Modarabas shall adhere to the following margin requirements:

i. Shares of listed Companies /TFCs	As at Regulation 6 of Part-II
ii. Bank deposits and Certificates of Investment / Certificates of Deposit of NBFCs/DFIs and Certificates of Musharaka of modarabas with investment grade credit rating by a credit rating agency registered with SEC. <ul style="list-style-type: none"> 25% margin is applicable to all forms of certificates including certificates issued under National Saving Scheme such as (a) Special Saving Certificate (b) Khas Deposits Certificates (c) Defense Saving Certificates (d) Foreign Exchange Bearer Certificates (e) Any other Government backed securities. Value of such certificates shall be taken as the sum payable on the date when facility is being granted by the modarabas. Prize Bonds being issued by Government needs to be given same treatment as that of other securities issued by Government. As such modarabas can provide facilities against Prize Bonds at 25% margin or a margin of 1.5 times of accrued markup on annual basis whichever is higher. Facilities provided against Prize Bonds should be for one year. 	20%
(iii) Pledge of trading stocks	25%
(iv) Hypothecation of trading stocks	50%

6. Facilities against Shares/TFCs and acquisition of shares. – (1) Modarabas shall not:

- take exposure against the security of shares / TFCs issued by them.
- provide unsecured credit to finance subscription towards floatation of share capital and issue of TFCs.
- take exposure against the non-listed TFCs or the shares of companies not listed on the Stock Exchange(s).
- take exposure on any limited company against the shares/TFCs of that company or its group companies.
- take exposure against 'sponsor director's shares' (issued in their own name or in the name of their family members) of banks.
- take exposure against the shares/TFCs of listed companies that are not members of the Central Depository System.
- take exposure against unsecured TFCs or non-rated TFCs or TFCs rated below investment grade by a credit rating agency registered with the SEC.

2. Modarabas shall not hold shares in any company whether as pledgee, mortgagee, of an amount exceeding 30% of the paid-up share capital of that company or 30% of their own paid-up fund and reserves, whichever is less.

3. Exposure against the shares of listed companies shall be subject to minimum margin of 30% of their current market value, though the modarabas may, if they wish, set higher margin requirements keeping in view other factors. The modarabas will monitor the margin on at least weekly basis and will take appropriate action for top-up and sell-out on the basis of their Board of Directors' approved credit policy and pre-fact written authorization from the borrower enabling the modarabas to do this.

4. Exposure against TFCs rated 'A' (or equivalent) and above by a credit rating agency registered with the SEC shall be subject to a minimum margin of 10% while the exposure against TFCs rated 'A-' and 'BBB' shall be subject to a minimum margin of 20%.

7. Restrictions on certain types of transactions. – (1) No modaraba shall make investment in the shares of a listed company of an amount exceeding 5% of its own equity or 10% of paid up capital of that company whichever is less:

Provided that these limits may be exceeded on an application made to the Registrar.

(2) No investment in stock market shall be made by a modaraba except in its own name.

(3) No modaraba shall allow facilities of any kind to its modaraba company or to any of its directors or to individuals, firms or companies in which it or any of its directors 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.

(4) No modaraba shall 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.

(5) No modaraba shall allow facilities on the guarantee 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.

(6) No modaraba shall allow facilities for speculative purposes.

(7) Modarabas may make investment in shares of un-listed companies subject to fulfillment of the following conditions: -.

- i) total exposure in such companies does not exceed 5% of the modaraba's equity;
- ii) the directors of the modaraba company have no direct or indirect interest in the investee company; and
- iii) the investee company must have operational track record of three profitable consecutive years preceding the decision:

Provided that where a modaraba is engaged in Venture Capital Financing as set out in its prospectus, this regulation may be waived on an application made to the Registrar.

(8) The investment of modaraba fund in listed securities shall not be more than 20% of the equity of the modaraba. However, this restriction shall not apply where the modaraba has taken up the shares as consequence of underwriting obligation, or the modaraba became the absolute owner due to default of its borrowers.

Provided that in exceptional cases the Registrar may relax this condition.

(B) Individuals Borrowers

8. Regulations for Housing Finance for individuals

- (1) The maximum per party limit in respect of housing finance by the modarabas will be Rs.7.5 million.
- (2) Modarabas are free to extend mortgage loans for housing, for a period not exceeding twenty years. Modarabas should be mindful of their adequate asset liability matching.
- (3) The house financed by the modarabas shall be mortgaged in modaraba's favour by way of equitable or registered mortgage.
- (4) Modarabas shall either engage professional expertise or arrange sufficient training for their concerned officials to evaluate the property, assess the genuineness and integrity of the title documents, etc.
- (5) The housing finance facility shall be provided at a maximum Loan to Value ratio of 85:100 (85%).
- (6) The housing finance facility shall be provided at a maximum of Income to installment ratio of 3:1.

Part-III

1. Limit on modaraba's exposure against liabilities. - (1) Liabilities, excluding contingent liabilities and security deposits, of modaraba shall not exceed seven times of its equity for the first two years of its operations. In the subsequent years, the liabilities shall not exceed ten times of the equity of the modaraba.

(2) Contingent liabilities of a modaraba shall not exceed seven times of its equity for the first two years of its operations. In the subsequent years, the contingent liabilities shall not exceed ten times of the equity of modaraba.

2. Creation and building up of reserve. - Every modaraba shall create reserve fund to which shall be credited:

“(a) ¹an amount not less than **20% and not more than 50%** of its after-tax profits till such time the reserve fund equals the amount of the paid up capital; and”

(b) thereafter a sum not less than 5% of its after tax profits.

Explanation. - Issuance of bonus shares may be made from the above-mentioned reserves or the reserves available after appropriation made under clause (a) or (b) whichever may be the case and since such bonus shares will increase the paid-up capital, the modaraba shall transfer further amounts to the reserves in order to comply with condition of clause (a);

¹ Amended vide circular No.11 of 2006 dated 18.7.2006

(a) an amount not less than **20% and not more than 30%** of its after tax profits till such time the reserve fund equals the amount of the paid up capital; and

3. Return on deposits. - Every Modaraba shall provide return on deposits which may be different for different volumes and maturities of deposits provided that uniformity is observed within each category but deposits of listed companies, financial institutions, recognized charitable trusts and statutory bodies shall, however, be exempt.

4. Deposit Insurance. – When deposit insurance arrangements are in place, every modaraba shall arrange full insurance cover for its deposits/COM etc. upto Rs. 100,000/-.

5. Classification and Provisioning for non-performing assets. - (1) Every modaraba shall observe the following prudential guidelines in the matter of classification of its assets and provisioning there against:

(A) SHORT TERM FINANCING FACILITIES

(B)

CLASSIFICATION	DETERMINANT	TREATMENT OF INCOME	PROVISIONS TO BE MADE
(1)	(2)	(3)	(4)
“OAEM (Other Assets Especially Mentioned).	Where rental, mark-up/ interest/profit or principal is overdue (past due) by ¹ 180-days from the due date.	Unrealized mark-up/ interest/ profit to be put in Suspense Account and not to be credited to Income Account except when realized in cash.	No Provision is required.
<p><i>With respect to the above change, all Modarabas shall also adhere to the following:</i></p> <p>(i) <i>In case where a medium or a long term financing facility has one year or less than one year of remaining maturity, it will be classified in accordance with the directions given in clause 5 (1) (A) of Part III of Prudential Regulations for Modarabas which details the classification guidelines for Short Term Financing Facilities.</i></p> <p>(ii) <i>In case of a medium or long term financing facility for Computers or other equipment used in Information Technology, which has high obsolescence, the directions given in clause 5 (1) (A) of Part III of Prudential Regulations for Modarabas will be followed.”</i></p>			

¹ Amended vide Circular No. 25 of 2004 dated 5.7.2004
~~Deleted: 90 days~~

CLASSIFICATION	DETERMINANT	TREATMENT OF INCOME	PROVISIONS TO BE MADE
(1)	(2)	(3)	(4)
Substandard.	Where rental, mark-up/ profit or principal is overdue by 180 days or more from the due date.	As above.	Provision of 20% of the difference resulting from the outstanding balance of principal against the facility less the amount of liquid assets realizable without recourse to a Court of Law and forced sale value of mortgaged/ pledged/ leased/ collaterally held assets as valued by valuers fulfilling prescribed eligibility criteria, in accordance with the guidelines provided in this regulation.
Doubtful.	Where rental, mark-up/ profit or principal is overdue by one year or more from the due date.	As above.	Provision of 50% of the difference resulting from the outstanding balance of principal against the facility less the amount of liquid assets realizable without recourse to a Court of Law and forced sale value of mortgaged/ pledged/ leased/ collaterally held assets as valued by valuers fulfilling prescribed eligibility criteria, in accordance with the guidelines provided in this regulation.
Loss.	<p>(a) Where rental, mark-up/ interest/profit or principal is overdue beyond two years or more from the due date.</p> <p>(b) Where Trade Bills (Import/Export or Inland Bills) are not paid/adjusted within 180 days of the due date.</p>	<p>As above.</p> <p>As above.</p>	<p>Provision of 100% of the difference resulting from the outstanding balance of principal against the facility less the amount of liquid assets realizable without recourse to a Court of Law and forced sale value of mortgaged/ pledged/ leased/ collaterally held assets as valued by valuers fulfilling prescribed eligibility criteria, in accordance with the guidelines provided in this regulation.</p> <p>As above.</p>

(B) MEDIUM AND LONG TERM FINANCING FACILITIES

CLASSIFICATION	DETERMINANT	TREATMENT OF INCOME	PROVISIONS TO BE MADE
(1)	(2)	(3)	(4)
OAEM (Other Assets Especially Mentioned).	Where rental, mark-up/ profit or principal is overdue (past due) by 90 days from the due date.	Unrealized mark-up/ profit to be put in Suspense Account and not to be credited to Income Account except when realized in cash.	No Provision is required.
Substandard.	Where installment of principal/ rental or mark-up/profit is overdue by one year or more.	As above.	Provision of 20% of the difference resulting from the outstanding balance of principal against the facility less the amount of liquid assets realizable without recourse to a Court of Law and forced sale value of mortgaged/ pledged/ leased/ collaterally held assets as valued by valuers fulfilling prescribed eligibility criteria, in accordance with the guidelines provided in this regulation.
Doubtful.	Where installment of principal/ rental or mark-up/profit is overdue by two years or more.	As above.	Provision of 50% of the difference resulting from the outstanding balance of principal against the facility less the amount of liquid assets realizable without recourse to a Court of Law and forced sale value of mortgaged / pledged / leased / collaterally held assets as valued by valuers fulfilling prescribed eligibility criteria, in accordance with the guidelines provided in this regulation.
Loss.	Where installment of principal/ rental or mark-up/profit is overdue by three years or more.	As above.	Provision of 100% of the difference resulting from the outstanding balance of principal against the facility less the amount of liquid assets realizable without recourse to a Court of Law and forced sale value of mortgaged/ pledged / leased / collaterally held assets as valued by valuers fulfilling prescribed eligibility criteria, in accordance with the

			guidelines provided in this regulation.
Notes: (a) Classified facilities/loans/advances that have been guaranteed by the Government would not require provisioning, however, markup / profit on such accounts shall be taken to suspense account instead of income account.			

(2) In addition to the above time based criteria, subjective evaluation of performing and non-performing advances / loans / lease port-folio shall be made for risk assessment and where considered necessary the category of classification determined on the basis of time based criteria shall be further downgraded. Such evaluation shall be carried out on the basis of adequacy of security inclusive of its realizable value, cash flow of borrower / lessee, his operation in the account, documentation covering advances and credit worthiness of the borrower / lessee etc.

(3) The rescheduling / restructuring of non-performing facilities shall not change the status of classification of a facility unless the terms and conditions of rescheduling / restructuring are fully met for a period of at least one year (excluding grace period, if any) from the date of such rescheduling / restructuring and at least 25% of the outstanding amount is recovered in cash. Accordingly, modarabas are directed to ensure that status of classification, as well as provisioning, is not changed in relevant reports to the Registrar Modaraba merely because a facility has been rescheduled or restructured. However, while reporting to the Credit Information Bureau (CIB) of State Bank of Pakistan, such loans / advances may be shown as ‘rescheduled / restructured’ instead of ‘default’.

(4) Where a borrower subsequently defaults (either principal or mark-up) after the rescheduled / restructured loan has been declassified by the modarabas as per above guidelines, the loan will again be classified in the same category it was in at the time of rescheduling / restructuring. However, modarabas at their discretion may further downgrade the classification, taking into account the subjective criteria.

(5) At the time of rescheduling / restructuring, modarabas shall consider and examine strictly on merit the viability of the project / business and shall appropriately secure their interest etc.

(6) Modarabas shall classify their loans / advances / lease portfolio and make provision thereagainst in accordance with the time-based criteria prescribed above. However, where a modaraba wishes to avail the benefit of leased assets owned by the modaraba; or additional collaterals held against lease facilities; or collaterals held against advances / loans facilities, they can consider the realizable value of mortgaged or pledged or leased or collaterally held assets for deduction from the outstanding principal amount of loans/advances/lease facilities against which such assets are leased/mortgaged/pledged/ collaterally held, before making any provisions. The value of the mortgaged / pledged assets, other than liquid assets, to be considered for this purpose shall be the forced sale value. Further, Forced Sale Value (FSV) once determined, shall remain valid for three years from the date of valuation during which period the underlying collateral/leased assets will not be revalued for provisioning purpose. The adjustment factors of 80%, 70% and 50% shall be applied on the value so determined for the purpose of determining provisioning requirement in 1st, 2nd and 3rd year of valuation, respectively. Thereafter, the assets shall be revalued and the adjustment factor of 50% shall be applied for all subsequent years. However, the FSV of the collateral shall be restricted to fresh revaluation or previous value, whichever is less. In case of modaraba authorized/eligible to undertake housing finance services,

FSV once determined, shall remain valid for a period of ten years from the date of valuation and an adjustment factor of 70% shall be applied on the value so determined for the purpose of determining provisioning requirement in respect of housing finance for the said period.

(7) Facilities against which securities or in case of lease facilities, additional securities are not available, or where mortgaged or pledged or leased assets have not been valued according to these guidelines and verified by the external auditors, shall continue to be classified and provided for according to the time-based criteria. Modarabas shall observe the following uniform criteria, for determining the realizable value of mortgaged / pledged / leased/ collaterally held assets, namely:-

- (i) Only assets having registered mortgage, equitable mortgage (where NOC for creating further charge has not been issued by modaraba and pledged /collaterally held assets shall be considered. Assets having pari-passu charge shall be considered on proportionate basis.
- (ii) Hypothecated assets and assets with second charge and floating charge shall not be considered.
- (iii) Valuations shall be carried out by an independent professional valuer who should be listed on the panel of valuers maintained by the Pakistan Banks Association / Modaraba Association of Pakistan. The valuers while assigning any values to the mortgaged / pledged / leased / collaterally held assets, shall take into account all relevant factors affecting the salability of such assets including any difficulty in obtaining their possession, their location and condition and the prevailing economic conditions in the relevant sector, business or industry. The realizable values of mortgaged / pledged / leased /collaterally held assets so determined by the valuers must have to be a reasonably good estimate of the amount that could currently be obtained by selling such assets in a forced / distressed sale condition. The valuers should also mention in their report the assumptions made, the calculations / formulae / basis used and the method adopted in determination of the realizable values.
- (iv) Valuation shall be done at least once in three years. If valuation is older than three years, a fresh revaluation should be done; otherwise the valuation shall be taken as nil. This requirement shall not be applicable to the modarabas engaged in housing finance services.

The categories of mortgaged/pledged/leased /collaterally held assets to be considered for valuation alongwith discounting factors to be applied would be as under (no other assets shall be taken into consideration):

(a) Liquid Assets:

Valuation of Liquid Assets, excluding pledged stocks, which are dealt with at (b) below, shall be determined by the modaraba itself and verified by the external auditors. However, in the case of pledged shares of listed companies values should be taken at market value as per active list of Stock Exchange(s) on the balance sheet date and as per guidelines given in the Technical Release (TR) - 23 issued by the Institute of Chartered Accountants of Pakistan (ICAP). Moreover, valuation of shares pledged against loans/advances/lease facilities shall be considered only if

these have been routed through Central Depository Company of Pakistan (CDC), otherwise these will not be admissible for deduction as liquid assets while determining required provisions.

(b) Pledged Stocks:

In case of pledged stocks of perishable and non-perishable goods, forced sale value should be provided by valuers, which should not be more than six months old, at each balance sheet date. The goods should be perfectly pledged, the operation of the godowns should be in control of the modaraba and regular valid insurance and other documents should be available. In case of perishable goods the valuers should also give the approximate date when these are expected to be of no value.

The values of mortgaged / pledged / leased / collaterally held assets determined by the valuers shall be subject to verification by the external auditors, who may reject cases of valuation, which in their opinion, do not appear to have been professionally carried out and values determined are unreasonable, or in the case of which valid documentation of mortgage / pledge / leased / collaterally held asset, supported by legal opinion wherever required, is not available on record.

(1) Subjective evaluation of investment portfolio and other assets shall be carried out by the modaraba. Classification of such assets and provision required there-against should be determined keeping in view the risk involved and the requirements of the International Accounting Standards as notified by the SEC under sub-section (3) of Section 234 of the Companies Ordinance, 1984 and Technical Releases issued by the ICAP, from time to time.

(2) Modarabas shall review, at least on a quarterly basis, the collectibility of their loans / advances / lease portfolio and shall properly document the evaluations so made. Shortfall in provisioning, if any, determined as a result of quarterly assessment, shall be provided for immediately in their books of accounts by the modarabas.

(3) The external auditors as a part of their annual audits of modarabas shall verify that all requirements under these regulations for classification of assets and determination of provisions required there-against have been complied with. The Commission or an officer designated by him may also check the adequacy of provisioning during on-site inspection.

7. Reversal of Provision: The provision held against classified assets will only be reversed when cash realization starts exceeding:

- (i) in case of loss category, the net book value of the assets;
- (ii) in case of doubtful category, 50% of the net book value of the assets; and
- (iii) in case of sub-standard category, 20% of the net book value of the assets.

8. Overdue, default and recovery thereof. - (1) Every modaraba shall furnish the Registrar Modaraba a list of defaulters on prescribed format, on quarterly basis. A list of rescheduled and restructured facilities shall also be submitted to the Registrar Modaraba in the similar manner on prescribed format. A person, whether natural or juristic, shall be deemed to be defaulter if he (or his dependent family members or concerns owned or controlled by him or concerns in which he or his dependent family members are major shareholders) has failed to pay off or liquidate any fiduciary obligation towards any modaraba in Pakistan as was agreed upon or

required under the terms and conditions of availment of the financing facility or to do or perform an act agreed to or undertaken in writing to be done or performed by him and such failure has continued for a period of one year from the date on which he was required to make the payment or to do or perform the act.

(2) Every modaraba shall nominate an officer as recovery officer or constitute a section as recovery section depending upon the magnitude of defaults.

(3) Besides the measures presently instituted by each modaraba, the modaraba shall set quarterly recovery targets as a percentage of the overdue obligations and communicate the same on quarterly basis to the Registrar Modaraba.

(4) A progress report on the recovery in relation to the targets shall be submitted to the Registrar Modaraba on quarterly basis. Modaraba shall also be required to explain deficiency if any, in meeting the targets and the strategies evolved with a view to ensuring achievement of subsequent targets.

(5) Wherever considered legally appropriate by the modaraba, cases of default may be referred to the Courts. The list of such cases and progress of recovery shall also be sent to the Registrar Modaraba on a quarterly basis.

Part IV

1. Internal audit. - Every modaraba shall have an Internal Audit Department whose head shall report to the board of directors directly and shall, inter-alia, be responsible for compliance with these guidelines and for establishing an effective means of testing, checking and compliance with the policy and procedures established by it.

2. Submission of statistical returns. - Every modaraba shall submit such periodical statements, information or reports in such forms and manner and within such time as may be prescribed by the Registrar Modaraba from time to time.

3. Code of conduct. - Every modaraba shall acquire and maintain membership of an association constituted in consultation with the Registrar Modaraba and modarabas shall follow the code of conduct prescribed by the said association(s).

4. Prevention of criminal use of modarabas for the purpose of money laundering and other unlawful trades. - Modarabas shall follow guidelines issued to safeguard themselves against their involvement in money laundering activities and other unlawful trades. These will add to or reinforce the following precautions, modarabas may have been taking in this regard;

- a) Modarabas shall accept deposits from an investor only after ensuring that an account has been opened in the investor's name using an account opening form, which will be developed by the respective industry associations in consultation with the Registrar Modaraba.
- b) Modarabas 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;

- c) Modarabas 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 modaraba 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, modarabas 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
- d) Modarabas 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.
- e) Every modaraba shall ensure that no payment or receipt exceeding Rs. 50,000/- shall be made in cash.

5. ¹“Fit and Proper Criteria.”

Application and scope:

(1) The Fit and Proper Criteria in relation to a Modaraba Company/Modaraba is applicable to the following persons:

- (i) Promoters of the Modaraba Company/Modaraba;*
- (ii) Director of the Modaraba Company;*
- (iii) Chief Executive of the Modaraba Company;*
- (iv) Key Executives of the Modaraba Company.*

(2) A proposed director or chief executive of the Modaraba Company shall not assume the charge of their respective office until their appointments have been approved by the Registrar (Modarabas).

(3) The application for seeking approval of the Registrar (Modarabas) under

¹Amended vide circular No. 10 of 2008 dated 2.6.2008

Deleted 5. Procedure for prior approval for appointment of directors and chief executives. – Modarabas shall, for obtaining prior approval of the Registrar Modaraba for making any change in the directors/chief executive, follow the following procedure:

- a) The application for approval of the appointment or any change in the directors/Chief Executive shall be submitted by the modaraba company to Registrar Modaraba not later than 14 days before the election/appointment or any change in the Directors/Chief Executive;*
- b) The above-referred application shall not be treated complete unless the information/documents as required under Forms and affidavit attached as Annexure-II and III respectively are furnished.*
- c) The information or deficiency or shortcoming as pointed out by Registrar Modaraba shall be supplied by the modaraba company, within 14 (fourteen) days of the issue of the letter by the office of Registrar Modaraba, otherwise the matter shall be treated as having been closed.*

clause (2) shall be submitted by the Modaraba Company along with the requisite information required under Annexure-A and the Affidavit as specified in Annexure-B.

1. “(3a). If any promoters or major shareholders of modaraba company ¹or a certificate holder of a modaraba company is a body corporate, an affidavit as per Annexure-B of these regulations shall also be submitted from such ultimate beneficial owner.”

(4) The appointment of Key Executives of the Modaraba Company does not require the approval of the Registrar (Modarabas), however the Modaraba Company shall ensure at the time of appointing a Key Executive that such person qualifies the Fit and Proper Criteria.

(5) The fitness and propriety of any person shall be assessed by taking into account all the relevant factors including but not limited to the following:

- (a) Integrity and track record of such person.*
- (b) Financial soundness of such a person.*
- (c) Competence and capability of the person.*
- (d) Conflict of interest of such person with the business of the Modaraba Company.*

2. *“Provided that in case the promoter or major shareholder ²of modaraba company or certificate holder of a modaraba is a body corporate, in addition to the relevant/applicable clauses, the corporate behavior of the body corporate as well as integrity and track record of the promoters and ultimate beneficial owner of such body corporate shall be assessed.*

Provided further that items (c) and (d) shall not be applicable while assessing the fitness and propriety of promoter and major shareholder of the body corporate.

Explanations: For the purpose of this regulation-

1. *“ultimate beneficial owner” means a natural person or individual who ultimately owns 10% or more ownership or controls the body corporate;*
2. *“promoter” means a person who has given an application to the Commission to form a modaraba company under rule 4 ³or an application to float a modaraba under clause (d) of sub-rule (2) of rule 3 of the Modaraba Companies and Modaraba Rules, 1981.”*

¹ Inserted vide circular No. 19 of 2018 dated 16.10.2018

² Inserted vide circular No. 19 of 2018 dated 16.10.2018

¹ Amended vide circular No. 30 of 2020 dated September 30, 2020

“or a certificate holder of a modaraba company” is inserted.

² “of modaraba company or certificate holder of a modaraba” is inserted.

³ “³or an application to float a modaraba under clause (d) of sub-rule (2) of rule 3 of the Modaraba Companies and Modaraba Rules, 1981.” Is substituted with “of the Modaraba Companies and Modaraba Rules, 1981”

ASSESSMENT OF FITNESS AND PROPRIETY

(1) Integrity and Track Record

A person shall not be considered Fit and Proper if he:

- (i) has been convicted of an offence involving moral turpitude;*
- (ii) has been involved in the mismanagement of investments, financial/business; misconduct, fraud, etc;*
- (iii) has been the subject to adverse findings, after conducting an inquiry, by the Commission/Registrar (Modarabas) or any other regulatory or professional body or government agency;*
- (iv) has been actively involved in the management of a company/firm whose registration/ license has been revoked or cancelled or which has gone into liquidation or other similar proceedings due to mismanagement of affairs, financial misconduct or malpractices;*
- (v) is ineligible, under the Companies Ordinance, 1984 the Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980 or any other legislation or regulation, from acting as a director or serving in a managerial capacity of a Modaraba Company, NBFC or a company;*
- (vi) has entered into a plea bargain arrangement with the National Accountability Bureau;*
- (vii) does not have the requisite disclosed and verifiable financial resources in case of a promoter of the Modaraba Company/Modaraba; or*
- (viii) does not have an established and proven track record of successfully running a business enterprise for 3 to 5 years, preferably a public listed company.*

(2) Financial soundness

In determining a person's financial soundness, the following shall be considered:

- (i) whether such person's financial statements/record including wealth statements/income tax returns/ assessment orders are available;*
- (ii) whether the person has been declared by a court of competent jurisdiction as defaulter in repayment of loan to a financial institution exceeding Rupees one million;*

- (ii) *whether the person has applied to be adjudicated as an insolvent and his application is pending;*
- (iv) *whether the person is an un-discharged insolvent; and*
- (v) *whether the person has been declared a defaulter by a stock exchange.*

(3) *Competence and Capability*

In determining a person's competence and capability the following shall be considered:

- (i) *the directors should be individuals having management/business experience of at least five years at a senior level;*
- (ii) *the directors shall have experience and knowledge in any profession such as financial services, accounting, law etc;*
- (iii) *the chief executive should have a minimum experience of seven to ten years in a senior management position, preferably in the regulated financial services sector;*
- (iv) *the chief executive should have the capacity to successfully undertake the responsibilities of the position; and*
- (v) *the Key Executives must be qualified professionals possessing relevant experience and certification relating to the job/ assignment.*

(4) *Conflict of interest*

The proposed directors or chief executive of Modaraba Company shall not:

- (i) *be a director in any other Modaraba Company engaged in a similar business in Pakistan.*

Provided that this condition shall not apply to nominees of the Commission, Federal or Provincial Governments on the board of any Modaraba Company;

- (ii) *be a director, chief executive, chief financial officer, chief internal auditor, research analyst or a trader (by whatever name/designation called) in a stock brokerage house or in any company/entity owned and controlled by a member of a stock exchange; and*
- (iii) *be a member of a stock exchange engaged in the business of brokerage or is a spouse of such member.*

(5) *The Fit and Proper Criteria is perpetual in nature and a Modaraba Company shall ensure compliance with the provisions of Fit and Proper Criteria.*

(6) *All persons subject to Fit and Proper Criteria must submit any change in the submitted information through the Chief Executive/Company Secretary of the Modaraba Company to the Registrar (Modarabas).*

(7) *Any violations or circumvention of the Fit and Proper Criteria shall be dealt with under Section 32 of the provisions of the Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980.*

6. Removal of records: No modaraba shall remove from Pakistan to a place outside Pakistan, any of its records or documents relating to its business without the prior permission of the Registrar.

7. Appointment of Special Auditors: The Registrar may require special audit of any modaraba in addition to statutory audit, inquiry/ inspection by the Registrar, at any time and may appoint special auditors, the cost of which shall be borne by the modaraba.

8. Appointment of Chief Executive: Except with the approval of the Registrar no person can represent more than one modaraba company as Chief Executive.

19. Places of business. (1)²

(1) The Modaraba shall report to the Commission, details of opening of a new branch/place of business, 15 days prior to opening of the subject branch. The Modaraba shall submit the following information:

- a) Number of existing branches;
- b) Exact location of the branch;
- c) Business prospects for opening the branch;
- d) List of products and services to be offered;
- e) System of supervision and control;
- f) Number of employees to be posted; and
- g) Name, number and location of branches of other Modarabas in the near vicinity.

(2) The Modaraba shall report closure of a branch to the Commission with specific reasons, at least 90 days prior to the closure of the branch.

¹ Amended vide circular No. 4 of 2016 dated January 22, 2016.

² Deleted. (1) A modaraba may open further places of business and it shall intimate the same to the Registrar within 15 days.

(2) The modaraba shall intimate to the Registrar the closure of any of its branches within 15 days.

- (3) The Modaraba while closing of its branch shall submit to the Commission, a final statement comprising complete record of the branch, at least 21 days prior to closure of the branch.
- (4) The Modaraba shall obtain approval of the Commission prior to opening and closing of a branch in any Capital Market Hub and submit the information given at sub-regulation (1).
- (5) The Modaraba while closing of its branch shall ensure that the public is informed through a public notice in a local daily newspaper at least 30 days prior to closure of the branch. The information of the same shall also be visibly displayed at the respective branch at least 30 days prior to closure of the branch. The copy of the published public notice shall also be submitted to the Commission within two days of publication.
- (6) The Modaraba while closing of its branch shall inform the stakeholders in writing about future correspondence address/mechanism and transfer their relevant record to the Head Office of Modaraba or nearest branch as deemed appropriate.
- (7) The Modaraba may relocate its existing branch within the same city. However, they shall report to the Commission 15 days prior to shifting of the existing branch to a new location.
- (8) The Commission may inspect the branches of Modarabas on a regular basis to ensure that their activities are being conducted in accordance with the prevalent regulatory framework.
- (9) The Modaraba shall ensure the following with respect to its branches:
 - (a) Appropriate display of certificate of registration/authorization to conduct its respective business.
 - (b) Properly trained staff/human resource.
 - (c) Security arrangements for the safety of documents and staff.
 - (d) Proper customer support for filling up of applications and completion of documentation.
 - (e) Drop box facility for collection of complaints and grievance redressal system/mechanism for prompt and effective resolution of investors' complaints.

(f) Product information being offered by the Modaraba at the branch through printed brochures for the information of potential / existing investor.

(10) A COI raising Modaraba shall ensure the following with respect to its branches:

- a. Appropriate and visible display of a valid permission from the Commission to issue COI.
- b. Appropriate and visible display of the current credit rating of the modaraba.
- c. Placement of standees written in Urdu language in a clear and concise manner (specimen attached as Schedule-V with the logo of “*Jama Punji*”, covering the following contents:
 - (i) Points to be considered before investing in COI.
 - d. (ii) Procedure for Investment in COI.
 - e.
 - f. (ii) Name of Shari’ah advisors of the Modaraba.

(2) The modaraba shall intimate to the Registrar the closure of any of its branches within 15 days.

(11) The management company shall provide office space for the modaraba free of any charges.

10. Distribution of profit.___ The modarabas shall distribute 90% of their net annual profits after appropriation to reserve, if any, as stipulated in regulation 2 of Part-III:

Provided that dividend for any year may be omitted or passed on if the distribution of dividend is *un-economical* and hence is not in the interest of certificate holders.

Explanation: Un-economical distribution of dividend here means such percentage of dividend declared by the modaraba company which is not likely to be in the benefit of certificate holders after certain deductions of tax, zakat and bank charges etc.

11. Annual Review Meeting.__ (1) Each modaraba shall hold an annual review meeting of its certificate holders in the town where the registered office of the modaraba company is situated, to review performance of the modaraba.

(2) There will be no voting right of the certificate holders in the annual review meeting.

(3) For the purpose of notice for the meeting, the provisions relating to notice of the meeting as provided in the Companies Ordinance, 1984 shall mutatis-mutandis apply to the notice issued by the modarabas to the certificate holders for the annual review meeting.

ANNEXURE-I

BORROWER'S BASIC FACT SHEET – FOR CORPORATE PRESCRIBED UNDER REGULATION 2 OF PART - II

Date of Request _____

(TO BE COMPLETED IN CAPITAL LETTERS OR TYPEWRITTEN)

1. BORROWER'S PROFILE:

Name										Address									
Phone#										Fax #					Email Address				
Office					Res.														
National Identity Card #										National Tax #					Sales Tax #				
Import Registration #					Export Registration #					Date of Establishment					Date of opening of A/C				

2. DETAILS OF DIRECTORS/OWNERS/PARTNERS:

Name										Address									
Phone#										Fax #					Email Address				
Office					Res.														
National Identity Card #										National Tax #									
Shareholding					Amount					% of Shareholding									

3. MANAGEMENT:

A) EXECUTIVE DIRECTORS/PARTNERS:																			
Name					Address					NIC #					Phone #				
1.																			
2.																			
B) NON-EXECUTIVE DIRECTORS/PARTNERS:																			
Name					Address					NIC #					Phone #				
1.																			
2.																			

4. CORPORATE STATUS:

Sole Proprietorship					Partnership					Public/Private Company				

5. NATURE OF BUSINESS:

Industrial			Commercial			Agricultural			Services			Any other		

6. REQUESTED LIMITS:

					Amount					Tenor				
Fund Based														
Non-Fund Based														

7. BUSINESS HANDLED/EFFECTED WITH ALL FINANCIAL INSTITUTIONS DURING THE LAST ACCOUNTING YEAR

Imports					Exports					Remittances effected (if any)				

8. EXISTING LIMITS AND STATUS:

	Amount	Expiry date	Status	
			Regular	Amount over-due (if any)
Fund Based				
Non-Fund Based				

9. ANY WRITE-OFF, RESCHEDULING/RESTRUCTURING AVOIDED DURING THE LAST THREE YEARS:

Name of Financial Institution	Amount during 1 st year		Amount during 2 nd year		Amount during 3 rd year	
	Write-off	Rescheduled/restructured	Write-off	Rescheduled/restructured	Write-off	Rescheduled/restructured

10. DETAILS OF PRIME SECURITIES MORTGAGED/PLEDGED:

A) AGAINST EXISTING FACILITIES:				
Name of Financial Institution	Nature of Security	Total Amount	Rank of Charge	Net Realizable Value
1.				
2.				
B) AGAINST REQUESTED/FRESH/ADDITIONAL FACILITIES:				
Name of Financial Institution	Nature of Security	Total Amount	Net Realizable Value	
1.				
2.				

11. DETAILS OF SECONDARY COLLATERAL MORTGAGED/PLEDGED:

A) AGAINST EXISTING FACILITIES:				
Name of Financial Institution	Nature of Security	Total Amount	Rank of Charge	Net Realizable Value
1.				
2.				
B) AGAINST REQUESTED/FRESH/ADDITIONAL FACILITIES:				
Name of Financial Institution	Nature of Security	Total Amount	Net Realizable Value	
1.				
2.				

12. CREDIT RATING (WHERE APPLICABLE):

Name Of Rating Agency	Rating

13. DETAILS OF ASSOCIATED CONCERNS
(AS DEFINED IN COMPANIES ORDINANCE, 1984):

Name of Concern	Name of Directors	Shareholding	% of Total shares capital

14. FACILITIES TO ASSOCIATED CONCERNS BY THE CONCERNED FI:

Name of concern	Nature & Amount of limit	Outstanding as on -----	Nature & Value of Securities	Overdues	Defaults

15. DETAILS OF PERSONAL GUARANTEES PROVIDED BY THE DIRECTORS/PARTNERS etc. TO FIs TO SECURE CREDIT:

Names of the Guarantors	Institutions/ persons to to whom Guarantee given	Amount of Guarantee	Validity Period	NIC #	NTN	Net-worth

16. DIVIDEND DECLARED (AMOUNT) DURING THE LAST THREE YEARS:

During 1 st Year	During 2 nd Year	During 3 rd Year

17. SHARE PRICES OF THE BORROWING ENTITY:

Listed Companies		Break-up value of the Shares in case of Private Limited Company
Current Price	Preceding 12 Months Average	

18. NET-WORTH (PARTICULARS OF ASSETS OWNED IN THEIR OWN NAMES BY THE DIRECTORS/PARTNERS/PROPRIETORS):

Owner's Name	Particulars of Assets	Market Value	Particulars of Liabilities

19. DETAILS OF ALL OVER DUES (IF OVER 90 DAYS):

Name Of Financial Institution	Amount

20. Details of payment schedule if term loan sought.

21. Latest Audited Financial Statements as per requirement of Regulation 2 to be submitted with the LAF (Loan Application Form).

22. Memorandum and Articles of Association, By-laws etc. to be submitted by the borrower along with the request.

I certify and undertake that the information furnished above is true to the best of my knowledge.

CHIEF EXECUTIVE'S/BORROWER'S
SIGNATURE & STAMP

COUNTER SIGNED BY:

AUTHORIZED SIGNATURE & STAMP
(MODARABA OFFICIAL)

BORROWER'S BASIC FACT SHEET – FOR INDIVIDUALS
PRESCRIBED UNDER PRUDENTIAL REGULATION 2 of PART-II

Date of Request. _____

(TO BE COMPLETED IN CAPITAL LETTERS OR TYPEWRITTEN)

1. BORROWER'S PROFILE:

Name										Address									
Phone#										Fax #					Email Address				
Office					Res.														
National Identity Card #										National Tax #									
Father's Name										Father's National Identity Card #									

2. PREFERENCES (AT LEAST TWO):

Name										Address									
Phone#										Fax #					Email Address				
Office					Res.														
National Identity Card #										National Tax #									

3. NATURE OF BUSINESS/PROFESSION:

Industrial	Commercial	Agricultural	Services	Any other

4. EXISTING LIMITS AND STATUS:

	Amount	Expiry date	Status		
			Regular	Amount over-due (if any)	Amount rescheduled/restructured (if any)
Fund Based					
Non-Fund Based					

5. REQUESTED LIMITS:

	Amount	Tenor
Fund Based		
Non-Fund Based		

6. Details of payment schedule if term loan sought.

7. Latest Income Tax Form / Wealth Statement to be submitted by the borrower.

I certify and undertake that the information furnished above is true to be best of my knowledge

 APPLICANT'S SIGNATURE & STAMP

COUNTER SIGNED BY:

 AUTHORIZED SIGNATURE & STAMP
 (MODARABA OFFICIAL)

“Annexure A

Information to be provided by Promoters, proposed director and proposed chief executive of the Modaraba Company

1.	<i>Curriculum Vitae/Resume containing:</i>
a	<i>Name: (former name if any):</i>
b	<i>Father's/Husband Name:</i>
c	<i>C.N.I.C # (attach copy)</i>
d	<i>Latest photograph</i>
e	<i>Nationality:</i>
f	<i>Age:</i>
g	<i>Contact details:</i>
	<i>i) Residential address:</i>
	<i>ii) Business address:</i>
	<i>iii) Tel:</i>
	<i>iv) Mobile:</i>
	<i>v) Fax:</i>
	<i>vi) E-mail:</i>
h	<i>National Tax Number:</i>
i	<i>Present occupation:</i>
j	<i>Qualification(s):</i>
	<i>i) Academic:</i>
	<i>ii) Professional:</i>
k	<i>Experience:</i> <i>(Positions held during the last 10 years along with name and address of company/institution)</i>
2.	<i>Nature of directorship:</i> <i>Executive</i> <input type="checkbox"/> <i>Non-executive</i> <input type="checkbox"/> <i>Status of directorship</i> <i>Nominee director</i> <input type="checkbox"/> <i>Nominated by _____ (name of shareholder along with nomination letter)</i> <i>Number of shares subscribed/held _____</i> <i>Personal net worth (copy of wealth statement) _____</i>
3.	<i>Names of companies, firms and other organizations of which the proposed person is a director, partner, office holder or major shareholder.</i>
4.	<i>CIB report issued by SBP for each company of which he has been a director (attach original CIB report for the last 10 years)</i>
5.	<i>In the case of appointment of directors the date of board of directors' meeting in which the appointment of proposed director was approved. (Attach copy of the minutes of the meeting of the board of directors. If the director is elected, then attach a copy of the minutes of the general meeting of the company.)</i>
6.	<i>Names of persons on the Board of the Modaraba Company who are related to the applicant.</i>

1.

7.	<p>Information to be provided by a body corporate as promoters and major shareholders of the modaraba company ¹or a certificate holder of a modaraba:</p> <p>(i) Financial statements for the last three years;</p> <p>(ii) Details of business place;</p> <p>(iii) ²Details of shareholding of the modaraba company and certificate holding of modaraba including details of ultimate beneficial owners.</p> <p>(iv) CIB report of the company and its directors and sponsors;</p> <p>(v) Details of any write off availed from any financial institution during last five years;</p> <p>(vi) Details of any finance obtained from any financial institution during the last five years;</p> <p>(vii) Details of any rescheduling of finance obtained from any financial Institution during the last five years;</p> <p>(viii) Any substantial adverse verdicts against the company from any Court of Law during the last ten years;</p> <p>(ix) Details of associated companies and subsidiaries;</p> <p>(x) Details of any existing or potential litigation in the name of the company, its sponsors and directors;</p> <p>(xi) Details of any inquiry, investigation conducted by the Commission or any other regulatory or professional body or government agency during the last five years; and</p> <p>(xii) Any other information as may be required by the Commission.</p>
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Signature_____

**use additional sheets if required*

1 Inserted vide circular No. 19 of 2018 dated 16.10.2018

¹ Amended vide Circular No. 30 of 2020 dated September 30, 2020
The words “or a certificate holder of a modaraba company” is inserted.

² “Details of shareholding of the modaraba company and certificate holding of modaraba details including details of ultimate beneficial owners.” Is substituted.

**¹(On Stamp Paper of appropriate value)
AFFIDAVIT**

Before the Registrar (Modarabas), Securities and Exchange Commission of Pakistan:

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

1. That I am eligible for the position of _____ according to the Fit and Proper Criteria for the position of _____, as prescribed under the Prudential Regulations for Modarabas.
2. That I hereby confirm that the statements made and the information given by me is correct and that there are no facts which have been concealed.
3. That I have no objection if the Registrar (Modarabas) or Securities and Exchange Commission of Pakistan requests or obtains information about me from any third party.
4. That I undertake to bring to the attention of the Registrar (Modarabas)/Securities Exchange Commission of Pakistan any matter which may potentially affect my status for the position of _____ as per the Fit and Proper Criteria as prescribed under the Prudential Regulations for Modarabas.
5. That all the documents provided to the Registrar (Modarabas)/ Securities Exchange Commission of Pakistan are true copies of the originals and I have compared the copies with their respective originals and certify them to be true copies thereof.
- 1.6. The companies, firms, sole proprietorship etc. where I am a chief executive, director (other than nominee director), owner or partner etc. has no overdue payment of any financial institution."
- 2 7. That I do hereby verify that the statements made above are correct to the best of my knowledge and belief and nothing has been concealed therein.

DEPONENT

The Deponent is identified by me

Signature _____

***ADVOCATE
(Name and Seal)***

¹ Amended vide circular No. 10 of 2008 dated 2.6.2008

2. Inserted vide circular No. 17 of 2016 dated 2.4.2016

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

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