

GOVERNMENT OF PAKISTAN
SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

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Islamabad, the 14th December, 2017

NOTIFICATION

S.R.O. 1256 (I) /2017.— The following draft Securities (Leverage Markets and Pledging) Rules, 2017 proposed to be made by the Securities and Exchange Commission of Pakistan with the approval of the Federal Government in exercise of the powers conferred by section 175 of the Securities Act, 2015 (III of 2015), read with clause (b) of section 43 of the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997) are hereby published for the information of all persons likely to be affected thereby and as required by sub-section (3) of the said section 175, notice is hereby given that objections and suggestions, if any, may be sent to the Securities and Exchange Commission of Pakistan within the next thirty days starting from the date of its placement of the website of the Commission, will be taken into consideration.

DRAFT RULES

**CHAPTER I
PRELIMINARY**

1. Short title and commencement.— (1) These rules may be called the Securities (Leveraged Markets and Pledging) Rules, 2017.

(2) They shall come into force at once.

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

- (a) "Act" means the Securities Act, 2015 (III of 2015);
- (b) "annexure" means annexure to these rules;
- (c) "authorized intermediary" for the purposes of these rules means any person referred in sub-rule (2) of rule 3 registered with the Commission as an authorized intermediary under these rules;
- (d) "borrower" means a person who borrows securities under these rules from a lender through the platform provided by an authorized intermediary for the purpose of securities lending and borrowing transactions;
- (e) "financer" means the person availing the facility of margin financing or margin trading;
- (f) "lender" means a person who lends securities to a borrower through the platform provided by an authorized intermediary for the purpose of securities lending and borrowing transactions;
- (g) "leveraged market" means the market for offering any of the leveraged market contracts;

- (h) “leveraged market contracts” means contracts relating to each of margin financing, margin trading and securities lending and borrowing;
- (i) “leveraged market participants” means any of the parties to leveraged market contracts or a person offering any leveraged market contract;
- (j) “margin financier” means the person registered and allowed under these rules to provide margin financing;
- (k) “margin financing” means extension or maintenance of credit for the purpose of purchasing or carrying any security through an authorized intermediary, as provided in Chapter III of these rules;
- (l) “margin financing agreement” means an agreement executed between the margin financier and the financee for the purpose of margin financing;
- (m) “margin trading” means extension or maintenance of credit through the platform provided by an authorized intermediary for the purpose of purchasing or carrying any security, as provided in Chapter IV of these rules;
- (n) “regulations” means regulations for the respective leveraged market contracts with the previous approval of the Commission made by—
 - (i) a securities exchange, under the Act; or
 - (ii) a central depository, under the Act and Central Depositories Act, 1997 (XIX of 1997); or
 - (iii) a clearing house, under the Act;
- (o) “securities lending and borrowing” means lending of securities by the lender and borrowing of securities by the borrower, through platform provided by an authorized intermediary, as provided in Chapter V of these rules; and
- (p) “trading financier” means such person registered and allowed under these rules to provide financing under margin trading.

(2) All other words and expressions used but not defined in these rules shall, unless there is anything repugnant in the subject or context, have the same meanings as assigned to them under the Act, the Companies Act, 2017 (XIX of 2017) and the Central Depositories Act, 1997 (XIX of 1997).

CHAPTER II AUTHORIZED INTERMEDIARIES

3. Authorized intermediary.— (1) The Commission shall determine the number and places for the establishment of authorized intermediaries.

(2) A securities exchange, central depository or clearinghouse desirous of providing a platform to facilitate transactions relating to any of the leveraged market contracts may make an application to the Commission for the purpose of acting as an authorized intermediary for the respective leveraged market contracts.

(3) The application under sub-rule (2) shall be accompanied by —

- (a) copy of the licence granted by the Commission to the applicant as a securities exchange, central depository or a clearing house, as the case may be;
- (b) copies of Memorandum and Articles of Association;
- (c) particulars of its chief executive officer and directors including their parentage, computerized National Identity Card numbers, residential addresses, directorships in other companies and significant shareholding in other companies;
- (d) list of its members in case of a company having no share capital and substantial shareholders in case of a company having share capital;
- (e) documents showing that satisfactory internal controls and written compliance procedures are available to act as authorized intermediary for the respective leveraged market contracts;
- (f) documents showing that adequate financial, technical, organizational and human resources are available to facilitate the activity of the respective leveraged market contracts in a proper and efficient manner, on an ongoing basis;
- (g) a draft of regulations governing the respective leveraged market contracts;
- (h) the receipt of the fee of one million rupees; and
- (i) such other document as may be required by the Commission.

(4) Upon receipt of the application under sub-rule (2) and the documents specified under sub-rule (3), the Commission, may register the applicant as an authorized intermediary and grant certificate of registration as specified in Form I as set out in the annexure and approve with or without modifications the regulations for the respective leveraged market contracts, if satisfied that —

- (a) the applicant is eligible for acting as authorized intermediary;
- (b) the applicant is in compliance with all applicable regulatory requirements and conditions; and
- (c) it is in the interest of the capital market for the applicant so to do.

(5) The Commission may, while registering an applicant as an authorized intermediary, specify conditions for such registration to be complied by the authorized intermediary in such manner and time, as it may think fit.

4. Refusal to grant registration. — (1) No application for registration made under rule 3 shall be refused except after giving the applicant an opportunity of being heard.

(2) In case the Commission refuses to grant registration to an applicant, the decision shall be communicated to the applicant stating therein the reasons for such refusal.

5. Suspension or restriction of authorized intermediary. — (1) The Commission may after giving an opportunity of being heard by an order in writing impose any restrictions on an authorized intermediary or suspend its registration, if —

- (a) the Commission, on reasonable grounds, believes that such action is in the interest of the capital market;

- (b) the authorized intermediary fails to comply with the provisions of the Act, these rules, any regulations or any directive or circular issued by the Commission or any condition of registration specified by the Commission;
- (c) the authorized intermediary fails to effectively implement or comply with the regulations;
- (d) the authorized intermediary fails to make any amendments to the regulations as may be required by the Commission;
- (e) the authorized intermediary fails or refuses to furnish the information required under any law to be furnished or required by the Commission or furnishes incorrect or incomplete information;
- (f) the authorized intermediary fails or refuses to cooperate in any audit, enquiry, inspection or investigation ordered by the Commission; or
- (g) the authorized intermediary refuses or fails to pay a penalty, if any, imposed by the Commission.

(2) The order of the Commission imposing any restriction or suspending the registration of the authorized intermediary shall state the period of restriction or suspension which shall not in the first instance exceed ninety days and such restriction or suspension may further be extended by the Commission by stating the reasons thereof in writing:

Provided that the period of each such extension shall not exceed ninety days and opportunity of being heard shall be provided on each such extension.

(3) The Commission while suspending the registration of an authorized intermediary may impose such conditions, as it deems proper, on the authorized intermediary.

(4) During the suspension the leveraged market contracts entered into before the suspension shall, subject to any directions issued by the Commission and regulations made by authorized intermediary, continue to remain valid and leveraged market participants shall fulfill their respective obligations under such leveraged market contracts accordingly.

6. Cancellation of registration of authorized intermediary. — (1) The Commission may cancel the registration of an authorized intermediary after providing it an opportunity of hearing, if —

- (a) the cause of restriction or suspension of registration under rule 5 continues for a period of not less than ninety days;
- (b) the authorized intermediary refuses or fails to pay the penalty, if any, imposed by the Commission;
- (c) the Commission determines that cancellation of registration shall be in the interest of the capital market;
- (d) a court of competent jurisdiction has passed a winding up order of the authorized intermediary or a resolution has been passed or petition has been filed for voluntary winding-up of the authorized intermediary;

- (e) the Commission, on reasonable grounds, believes that any other person referred to in sub-rule (2) of rule 3 shall perform the functions of the authorized intermediary in a better and effective manner;
- (f) the authorized intermediary does not comply with the restrictions or conditions imposed by the Commission at the time of registration, restriction or suspension; or
- (g) the authorized intermediary requests the Commission, on reasonable grounds, to cancel its registration.

(2) The Commission while cancelling the registration of an authorized intermediary may take such measures and issue such directions as it deems fit.

7. Conditions applicable to authorized intermediary.— An authorized intermediary shall —

- (a) provide a platform to facilitate transactions of the respective leveraged market contracts;
- (b) ensure that the requirements of these rules, the regulations and the requirements specified by the Commission and directions of the Commission are being complied with;
- (c) ensure that a fair, transparent and efficient system for entering into and carrying out respective leveraged market contracts is provided in accordance with the regulations and all other applicable laws;
- (d) make suitable amendments in the regulations from time to time with the approval of the Commission;
- (e) correctly record all transactions relating to respective leveraged market contracts;
- (f) submit to the Commission such periodic returns and other information as specified by the Commission;
- (g) correctly disclose such information, as specified by the Commission, to the public relating to the respective leveraged market contracts;
- (h) collect and maintain margins specified in the regulations;
- (i) ensure that the total financing provided by a margin financier and or trading financier at any point in time or total financing provided to a single financer or to customers of one broker or total financing provided in respect of any particular security, does not exceed the limits specified in the regulations;
- (j) ensure that the total financing obtained by a single financer or all financers or in any particular security, at any point in time, does not exceed the limits specified in the regulations;
- (k) ensure that total lending by a lender or borrowing by a borrower, at any point in time, of a particular security does not exceed the limits specified in the regulations;
- (l) not provide false or misleading or incomplete information to the Commission;
- (m) cooperate in any audit, enquiry, inspection or investigation ordered by the Commission; and

- (n) comply with such other directions as may be issued by the Commission.

CHAPTER III

MARGIN FINANCING

8. Eligibility criteria for a margin financier. — A person shall be eligible to apply for registration as a margin financier, if —

- (a) such person is —
 - (i) a securities broker;
 - (ii) a banking company as defined under the Banking Companies Ordinance, 1962 (LVII of 1962), with a minimum credit rating as specified in regulations;
 - (iii) a financial institution covered under section 3A of the Banking Companies Ordinance, 1962 (LVII of 1962) with a minimum credit rating as specified in regulations;
 - (iv) an investment finance company licensed by the Commission to provide investment finance services with a minimum credit rating as specified in regulations; or
 - (v) such other corporate entity as may be recommended by the authorized intermediary and approved by the Commission;
- (b) such person meets the capital adequacy requirements specified in regulations;
- (c) such person has adequate financial, technical, organizational and human resources for extension and maintenance of credit for the purpose of purchasing or carrying any security;
- (d) such person is not in default of any regulatory requirement;
- (e) such person has not been convicted of a fraud under any law, an offence under the laws administered by the Commission or any other offence involving moral turpitude and in case of a company none of its directors or substantial shareholders, senior management officers, as the case may be, has been convicted of a fraud under any law, an offence under the laws administered by the Commission or any other offence involving moral turpitude;
- (f) no investigation or enquiry has been concluded by the Commission with any adverse findings of mismanagement or misappropriation against such person or any of its directors or substantial shareholders or senior management officers;
- (g) no proceedings are pending with respect to its winding-up, insolvency or any analogous relief;
- (h) in case of a securities broker,—
 - (i) it has valid trading rights on a securities exchange and such rights are not suspended;
 - (ii) it is not in default of any payment obligations under the regulations of a securities exchange;

- (iii) none of its substantial shareholders, directors or senior management officer by whatever name called have —
 - (A) remained a substantial shareholder, director, chief executive officer, partner of a broker who has been expelled or declared a defaulter on account of default or any other reason under the securities exchange regulations; or
 - (B) remained a broker who has been expelled or declared a defaulter on account of default or any other reason under the securities exchange regulations;
- (i) such person is a participant or accountholder in central depository system and its status as a participant or accountholder is not suspended or terminated;
- (j) such person is a clearing member of a clearing house and its status as a clearing member is not suspended or terminated; and
- (k) such person meets such other requirements as may be specified by the Commission.

9. Registration of a margin financier. — (1) A person eligible for registration under rule 8 may make an application to the authorized intermediary for registration which shall be accompanied by the following documents, namely:—

- (a) documents showing that the requirements of clauses (a), (b), (c), (g), (h), (i) and (j) of rule 8 have been fulfilled;
- (b) Memorandum and Articles of Association;
- (c) particulars of its chief executive officer and directors including their parentage, computerized national identity card numbers, residential addresses, directorships in other companies and significant shareholding in other companies;
- (d) list of substantial shareholders, in case the applicant is a company;
- (e) an affidavit, in the manner specified in Form-II set out in the annexure, that the applicant is not in violation of the requirements of rule 8;
- (f) A copy of the latest audited financial statements;
- (g) evidence of payment of application fee, charges, deposits and contributions as specified in the regulations; and
- (h) any other document specified in the regulations.

(2) If the authorized intermediary is satisfied that the eligibility criteria under rule 8 has been met with and the documents required under rule 9 have been submitted, the authorized intermediary may register the applicant as a margin financier.

(3) A margin financier shall not commence its business unless it has executed such agreements and assurances and furnished such documents as required by the authorized intermediary and specified in the regulations.

Explanation. — For the purpose of clause (b) of sub-rule (1) of rule 9 the deponent shall be its chief executive officer, the chief compliance officer, company secretary or equivalent.

10. Refusal to grant registration. — (1) No application for registration made under rule 9 shall be refused except after giving the applicant an opportunity of being heard.

(2) In case the authorized intermediary refuses to grant registration to an applicant, the decision shall be communicated to the applicant stating therein the reasons for such refusal.

11. Restriction or suspension of a margin financier. — (1) The authorized intermediary may suspend or restrict with immediate effect a margin financier from providing margin financing and shall immediately notify to the Commission and market participants of such restriction or suspension, if such financier —

- (a) is not in compliance with the eligibility conditions specified in rule 8;
- (b) fails or refuses to comply with any provision of these rules or any directions, orders or circulars issued by the Commission;
- (c) fails or refuses to comply with the regulations; or
- (d) is in breach of any obligation under an agreement or security furnished to the authorized intermediary or performance of any of the material obligations under any such agreement or security becomes unlawful or any such agreement or security is declared to be void or is repudiated or its validity or enforceability at any time is challenged by the margin financier or any party furnishing such security.

(2) Where the authorized intermediary neglects or fails to restrict or suspend a margin financier under sub-rule (1), the Commission may restrict or suspend the margin financier from providing margin financing.

12. Cancellation of registration of margin financier. — (1) The authorized intermediary may, after providing an opportunity of hearing to a margin financier, cancel its registration, if —

- (a) it is not in compliance with the eligibility conditions specified in rule 8;
- (b) the cause of restriction or suspension under rule 11 continues for more than forty-five days;
- (c) the margin financier does not furnish the information required by the authorized intermediary or the Commission or furnishes incomplete or incorrect information;
- (d) it fails or refuses to cooperate in any audit, enquiry, inspection or investigation ordered by the Commission;
- (e) a court of competent jurisdiction orders the winding-up or liquidation of the margin financier;
- (f) any steps are taken for the winding-up of the margin financier by its shareholders or creditors; or
- (g) a receiver, administrator or similar official is appointed in respect of the margin financier or a substantial part of its assets.

(2) Where upon occurrence of any of the events specified in sub-rule (1), the authorized intermediary fails to cancel the registration of the authorized financier, the Commission may, after providing an opportunity of hearing to the margin financier, direct the authorized intermediary to cancel the registration of such margin financier and upon such direction the authorized intermediary shall immediately cancel the registration of such margin financier.

13. Conditions applicable to margin financiers. — A margin financier shall —

- (a) only extend margin financing for purchases or carrying of securities in respect of trades carried out on a securities exchange;
- (b) not extend margin financing without first executing a margin financing agreement with the financee which shall *inter alia* contain provisions prescribed in Form V as set out in the annexure;
- (c) at all times comply with the regulations and all directives or circulars as may be issued by the Commission and the authorized intermediary;
- (d) ensure that true and complete information is passed on to the authorized intermediary; and
- (e) ensure compliance with the provisions of the Anti-Money Laundering Act, 2010 (Act VII of 2010) and any rules and regulations made thereunder.

14. Additional conditions applicable to brokers who are margin financiers. — In addition to the provisions of rule 13, a broker which is registered as a margin financier shall —

- (a) provide margin financing by using its own funds or funds borrowed from financial institutions specified in sub-clauses (ii), (iii) and (iv) of clause (a) of rule 8;
- (b) not use the funds of any of its customers for providing margin financing to any other person or for proprietary account;
- (c) not provide margin financing except through the platform provided by the authorized intermediary;
- (d) not provide margin financing to any customer without evaluating the creditworthiness of the customer through a proper credit risk assessment methodology; and
- (e) not provide margin financing to any person who is not its customer.

15. Regulatory requirements for margin financing.—The authorized intermediary shall specify, in such manner as the Commission may direct, the following matters, namely:-

- (a) the selection criteria of securities for which margin financing can be obtained;
- (b) the maximum limits of margin financing which may be obtained by a securities broker for its proprietary position, by a single customer through one or more securities brokers or by all the customers of a single securities broker or by a securities broker collectively for proprietary account and trading for customer;
- (c) the maximum limits of margin financing which may be obtained by a securities broker for its proprietary position, by a single customer

- through one or more brokers or by all the customers of a single broker or by a broker collectively for proprietary account and trading for customer, at any point of time, in a particular scrip;
- (d) the percentage of the total value of securities financed under margin financing which shall be paid by the financee as financee's minimum equity participation for the purchase of such securities;
- (e) suspension or disciplining of margin financiers including grounds for taking such action;
- (f) terms and conditions under which margin financing may be provided;
- (g) recording and publishing of details of margin financing by the authorized intermediary;
- (h) fees, charges, contributions and deposits payable in respect of margin financing;
- (i) reporting details relating to margin financing from margin financier and such brokers who are financees or acting on behalf of such customers who are financees; and
- (j) any other matter as deemed necessary for the effective implementation and enforcement of these rules.

CHAPTER IV MARGIN TRADING

16. Eligibility criteria for trading financier. — A person shall be eligible to apply for registration as a trading financier, if —

- (a) such person is —
 - (i) a securities broker;
 - (ii) a banking company as defined under the Banking Companies Ordinance, 1962 (LVII of 1962), with a minimum credit rating as specified in regulations;
 - (iii) a financial institution covered under section 3A of the Banking Companies Ordinance, 1962 (LVII of 1962) with a minimum credit rating as specified in regulations;
 - (iv) an investment finance company licensed by the Commission to provide investment finance services with a minimum credit rating as specified in regulations;
 - (v) a collective investment scheme as defined in the Non-banking Finance Companies and Notified Entities Regulations, 2008 and categorized as equity scheme or any scheme launched for the purpose of investment in margin trading provided its constituent documents allow such scheme to provide financing for margin trading; and
 - (vi) such other corporate entity as may be recommended by the authorized intermediary and approved by the Commission;
- (b) such person meets the capital adequacy requirements specified in regulations;

- (c) such person has adequate financial, technical, organizational and human resources for extension or maintenance of credit for the purpose of purchasing or carrying any security;
- (d) such person is not in default of any regulatory requirement;
- (e) such person has not been convicted of a fraud under any law, an offence under the administered legislation or any other offence involving moral turpitude and in case of a company or an asset management company, none of its directors and substantial shareholders, senior management officer as the case may be, has been convicted of a fraud under any law, an offence under the laws administered by the Commission or any other offence involving moral turpitude;
- (f) no investigation or enquiry has been concluded against it by the Commission with any adverse findings of mismanagement or misappropriation and in case of a company or an asset management company (where applicant is a collective investment scheme) no such findings have been recorded against any of its directors or substantial shareholders;
- (g) no proceedings are pending with respect to its winding-up, insolvency or any analogous relief;
- (h) in case of a securities broker, —
 - (i) it has valid trading rights on a securities exchange and such rights are not suspended;
 - (ii) it is not in default of any payment obligations under the regulations of a securities exchange; and
 - (iii) none of its substantial shareholders, directors or senior management officer, by whatever name called, have —
 - (A) remained a substantial shareholder, director, senior management officer, partner of a broker who has been expelled or declared a defaulter on account of default or any other reason under the securities exchange regulations; or
 - (B) remained a broker who has been expelled or declared a defaulter on account of default or any other reason under the securities exchange regulations;
- (i) such person is a participant or accountholder in a central depository system and its status as a participant or accountholder is not suspended or terminated;
- (j) such person is a clearing member of a clearing house and its status as a clearing member is not suspended or terminated; and
- (k) such person meets with such other requirements as may be specified by the Commission.

17. Registration of a trading financier. – (1) A person eligible for registration under rule 16 may make an application to the authorized intermediary for registration which shall be accompanied by the following documents, namely: —

- (a) documents showing that the requirements of clauses (a), (b), (c), (g), (h), (i) and (j) of rule 16, have been fulfilled;
- (b) Memorandum and Articles of Association and in case of a collective investment scheme, its constituent documents;
- (c) particulars of its chief executive officer and directors including their parentage, computerized national identity card numbers, residential addresses, directorships in other companies and significant shareholding in other companies and in case of a collective investment scheme, similar particulars of the chief executive officer and directors of the asset management company;
- (d) list of substantial shareholders, in case the applicant is a company;
- (e) an affidavit, in the manner specified in Form-III as set out in the annexure that the applicant is not in violation of the requirements of rule 16;
- (f) a copy of the latest audited financial statements;
- (g) evidence of payment of application fee, charges, deposits and contributions as specified in the regulations; and
- (h) any other document specified in or required by the regulations.

(2) If the authorized intermediary is satisfied that the eligibility criteria under rule 16 has been satisfied and the documents required under rule 17 have been submitted, the authorized intermediary may register the applicant as a trading financier.

(3) A trading financier shall not commence its business as a trading financier unless it has executed such agreements and assurances and furnished such documents as required by the authorized intermediary and specified in the regulations.

Explanation.— For the purpose of clause (b) of sub-rule (1) the deponent shall be the chief executive officer, the chief compliance officer, company secretary or equivalent of the applicant.

18. Refusal to grant registration. — (1) No application for registration made under rule 17 shall be refused except after giving the applicant an opportunity of being heard.

(2) In case the authorized intermediary refuses to grant registration to an applicant, the decision shall be communicated to the applicant stating therein the reasons for such refusal.

19. Restriction or suspension of a trading financier. — (1) The authorized intermediary may immediately restrict a trading financier from providing financing for margin trading and shall immediately notify to the Commission and market participants of such restriction or suspension, if such trading financier —

- (a) after registration is not in compliance with the eligibility conditions specified in rule 16;
- (b) fails or refuses to comply with any provision of these rules or any directions, orders or circulars issued by the Commission;

- (c) fails or refuses to comply with the regulations; or
- (d) is in breach of any obligation under an agreement or security furnished to the authorized intermediary or performance of any of the material obligations under any such agreement or security becomes unlawful or any such agreement or security is declared to be void or is repudiated or its validity or enforceability at any time is challenged by the trading financier or any party furnishing such security.

(2) Where the authorized intermediary neglects or fails to restrict or suspend a trading financier under sub-rule (1), the Commission may restrict or suspend such trading financier.

20. Cancellation of registration of a trading financier. — (1) The authorized intermediary may, after providing an opportunity of hearing to a trading financier, cancel the registration of such trading financier and shall immediately notify to the Commission of such cancellation, if —

- (a) the cause of restriction or suspension under rule 19 continues for more than forty five days;
- (b) the trading financier fails or refuses to furnish the information required by the authorized intermediary or Commission, or furnishes incomplete or incorrect information;
- (c) it fails or refuses to cooperate in any audit, enquiry, inspection or investigation ordered by the Commission;
- (d) a court of competent jurisdiction orders winding up or liquidation of the trading financier;
- (e) any step has been taken to seek voluntary winding-up of the trading financier by its shareholders or creditors; or
- (f) a receiver, administrator or similar official is appointed in respect of the trading financier or a substantial part of its assets.

(2) Upon occurrence of any of the events specified in sub-rule (1), the Commission may, after providing an opportunity of hearing to a trading financier, direct the authorized intermediary to cancel the registration of such trading financier and upon such direction the authorized intermediary shall immediately cancel the registration of such trading financier.

21. Conditions applicable to trading financiers. — A trading financier shall —

- (a) only extend financing to finance purchases or carrying securities in respect of trades carried out on a securities exchange;
- (b) at all times comply with the regulations and all directives or circulars as may be issued by the Commission and the authorized intermediary;
- (c) ensure that true and complete information is passed on to the authorized intermediary; and
- (d) ensure compliance with the provisions of the Anti-Money Laundering Act, 2010 (Act VII of 2010) and any rules and regulations made thereunder.

22. Additional conditions applicable to brokers who are trading financiers. — (1)

In addition to the provisions of rule 21, a broker who is registered as a trading financier shall—

- (a) provide financing under margin trading by using his own funds or funds borrowed from financial institutions specified in sub-clauses (ii), (iii) and (iv) of clause (a) of rule 16 or subject to sub-rule (2) use the funds of his customers, provided the broker has entered in to an agreement with such customers, which shall contain *inter alia* the provisions prescribed in Form VI as set out in the annexure;
 - (b) not use the funds of any customer, except as provided in clause (a), for providing financing under margin trading to any other person or for proprietary account; and
 - (c) not provide financing under margin trading except through the platform provided by the authorized intermediary.
- (2) The Commission may, where it deems necessary in the interest of the market,
- (a) lay down eligibility criteria for customers which may provide funds to securities brokers for providing finance under margin trading; and
 - (b) restrict or prohibit the use of funds of corporate customers by securities brokers generally or otherwise.

23. Regulatory requirements for margin trading.- (1) The authorized intermediary shall specify, in such manner as the Commission may direct, the following matters, namely:-

- (a) the selection criteria, including the minimum liquidity requirements, for securities for which financing can be obtained by margin trading;
- (b) risk management systems, including but not limited to collateral and margin requirements, exposure margins, position limits, collection of mark to market losses, deposits provided that mark to mark losses shall be payable in cash only;
- (c) the maximum limits of financing which may be obtained by a broker for its proprietary position, by a single customer of a broker or by all the customers of a single broker, or by the broker collectively for proprietary account and trading for customer;
- (d) the maximum limits of financing which may be obtained by a broker for its proprietary position, by a single customer of a broker or by all the customers of a single broker, or by the broker collectively for proprietary account and trading for customer, at any point of time in a particular scrip;
- (e) the percentage of the total value of securities financed in margin trading which shall be paid by the financee as financee's minimum equity participation for the purchase of such securities provided that such equity participation shall be paid by the financee from his own sources and not through any form of financing or credit from the broker;
- (f) suspension or disciplining of a trading financier including grounds for taking such action;
- (g) terms and conditions under which margin trading may be undertaken;
- (h) the contract period provided that such contract period shall not exceed sixty days;

- (i) recording and publishing of details of margin trading by the authorized intermediary;
- (j) fee, charges, contributions and deposits payable in respect of margin trading;
- (k) reporting details relating to margin trading from a trading financier and such brokers who are financees or acting on behalf of such customers who are financees; and
- (l) any other matter as deemed necessary for the effective enforcement of these rules.

(2) The funds provided by a corporate customer of a broker for margin trading as provided in clause (a) of rule 22 shall be from its surplus funds and provided with the approval of its board of directors.

CHAPTER V SECURITIES LENDING AND BORROWING

24. Eligibility criteria for securities lender and borrower. — A person shall be eligible to apply for registration as a securities lender and borrower, if —

- (a) such person is —
 - (i) a securities broker;
 - (ii) a banking company defined under the Banking Companies Ordinance, 1962 (LVII of 1962), with a minimum credit rating as specified in regulations;
 - (iii) a financial institution covered under section 3A of the Banking Companies Ordinance, 1962 (LVII of 1962) with a minimum credit rating as specified in regulations;
 - (iv) an investment finance company licensed by the Commission to provide investment finance services with a minimum credit rating as specified in regulations; or
 - (v) such other person as may be recommended by the authorized intermediary and approved by the Commission.
- (b) such person meets the capital adequacy requirements specified in regulations;
- (c) such person has adequate financial, technical, organizational and human resources to undertake the transaction of securities borrowing and lending;
- (d) such person is not in default of any regulatory requirement;
- (e) such person has not been convicted of a fraud under any law, an offence under the laws administered by the Commission or any other offence involving moral turpitude and in case of firms and companies none of their partners, directors and substantial shareholders, senior management officer as the case may be, has been convicted of a fraud under any law, offence under the laws administered by the Commission or any other offence involving moral turpitude;

- (f) no investigation or enquiry has been concluded by the Commission with any adverse findings of mismanagement or misappropriation against such person or any of their directors, substantial shareholders, senior management officers, or partners, as the case may be;
- (g) no proceedings are pending with respect to its winding-up or insolvency or an analogous relief;
- (h) in case of a broker,—
 - (i) it has valid trading rights on a securities exchange and such trading rights are not suspended;
 - (ii) it is not in default of any payment obligations under the regulations of a securities exchange;
 - (iii) none of its substantial shareholders, directors or senior management officer, by whatever name called, have —
 - (A) remained a substantial shareholder, director, senior management officer, partner of a broker who has been expelled or declared a defaulter on account of default or for any other reason under the securities exchange regulations; or
 - (B) remained a broker who has been expelled or declared a defaulter on account of default or for any other reason under the securities exchange regulations;
- (i) such person is a participant or accountholder in a central depository system and its status as a participant or accountholder is not suspended;
- (j) such person is a clearing member of a clearing house and its status as a clearing member is not suspended or terminated; and
- (k) such person meets such other requirements as may be specified by the Commission.

25. Registration of a securities lender and borrower. — (1) A person eligible for registration under rule 24 may make an application to the authorized intermediary for registration which shall be accompanied by the following documents, namely: —

- (a) documents showing that the requirements of clauses (a), (b), (c), (g), (h) (i) and (j) of rule 24 have been fulfilled;
- (b) Memorandum and Articles of Association;
- (c) particulars of its chief executive officer and directors including their parentage, computerized national identity card numbers, residential addresses, directorships in other companies and significant shareholding in other companies;
- (d) list of substantial shareholders;;
- (e) an affidavit, in the manner specified in Form-IV as set out in the annexure, that the applicant is not in violation of the requirements of clauses (d), (e) and (f) of rule 24;
- (f) a copy of the latest audited financial statements;

- (g) evidence of payment of application fee, charges, deposits and contribution as specified in the regulations; and
- (h) any other document specified in or required by the regulations.

(2) If the authorized intermediary is satisfied that, the eligibility criteria under rule 24 has been satisfied and the documents required under sub-rule (1) of rule 25 have been submitted, the authorized intermediary may register the applicant as a securities lender and borrower.

(3) A securities lender or borrower shall not commence its business as a securities lender or borrower, as the case may be, unless he has executed such agreements and assurances and furnished such documents as required by the authorized intermediary and specified in the regulations.

Explanation. — For the purpose of clause (b) of sub-rule (1) the deponent shall be its chief executive officer, chief compliance officer, company secretary or equivalent.

26. Refusal to grant registration. — (1) No application for registration made under rule 25 shall be refused except after giving the applicant an opportunity of being heard.

(2) In case the authorized intermediary refuses to grant registration to an applicant, the decision shall be communicated to the applicant stating therein the reasons for such refusal.

27. Restriction or suspension of a securities lender and borrower. — (1) The authorized intermediary may immediately restrict or suspend a securities lender and borrower from securities lending and borrowing and shall immediately notify to the Commission and the market participants of such restriction or suspension, if the securities lender and borrower —

- (a) after registration is not in compliance with the eligibility conditions specified in rule 24; or
- (b) fails or refuses to comply with any provision of these rules or any directions, orders or circulars issued by the Commission from time to time;
- (c) fails or refuses to comply with the regulations;
- (d) is in breach of any obligation under an agreement or security furnished to the authorized intermediary or performance of any of the material obligations under any such agreement or security becomes unlawful or any such agreement or security is declared to be void or is repudiated or its validity or enforceability at any time is challenged by the securities lender and borrower or any party furnishing such security; or
- (e) is in a situation where a receiver, administrator or similar official is appointed in respect of the trading financier or a substantial part of its assets.

(2) Where the authorized intermediary neglects or fails to restrict or suspend a securities lender and borrower under sub-rule (1) of rule 27, the Commission may restrict or suspend the securities lender and borrower.

28. Cancellation of registration of a securities lender and borrower. — (1) The authorized intermediary may, after providing an opportunity of hearing to the securities lender and borrower, cancel its registration and shall immediately notify to the Commission of such cancellation, if —

- (a) it is not in compliance with the eligibility conditions specified in rule 24;
- (b) the cause of restriction under rule 27 continues for more than forty-five days;
- (c) it does not furnish the information required by the authorized intermediary or Commission, or furnishes incomplete or incorrect information;
- (d) it refuses or fails to cooperate in any audit, enquiry, inspection or investigation ordered by the Commission;
- (e) a court of competent jurisdiction orders winding up or liquidation of the securities lender and borrower; or
- (f) any step has been taken to seek voluntary winding-up of the securities lender and borrower by its shareholders or creditors.

(2) Upon occurrence of any of the events specified in sub-rule (1), the Commission may, after providing an opportunity of hearing to a securities lender and borrower, direct the authorized intermediary to cancel the registration of such securities lender and borrower and upon such direction the authorized intermediary shall immediately cancel the registration of such securities lender and borrower.

29. Conditions applicable to securities lender and borrower. — (1) A securities lender and borrower shall —

- (a) only lend or borrow securities through the platform provided by the authorized intermediary;
- (b) not lend or borrow securities for his own benefit or on behalf of a customer, whether directly or indirectly, of any company where such lender and borrower or the customer is —
 - (i) a director or sponsor;
 - (ii) an associated company and associated undertaking;
 - (iii) a shareholder who is barred from selling such securities; or
 - (iv) any other person as may be specified by the Commission;
- (c) be eligible to lend or borrow any security or arrange for lending or borrowing of any security for his own benefit or on behalf of its customers;
- (d) at all times comply with the regulations and all directives or circulars as may be issued by the Commission and the authorized intermediary;
- (e) ensure that true and complete information is passed on to the authorized intermediary; and

- (f) ensure compliance with the provisions of the Anti-Money Laundering Act, 2010 (Act VII of 2010) and any rules and regulations made thereunder.

30. Regulatory requirements for securities lending and borrowing.- The authorized intermediary shall specify, in such manner as the Commission may direct, the following matters, namely: -

- (a) risk management systems, including but not limited to collateral and margin requirements, exposure margins, position limits, collection of mark to market losses, forms of deposits, etc. ;
- (b) the manner in which the authorized intermediary shall put in place a system whereby the-
 - (i) lender agrees to lend a specified number and class of securities to the borrower at an agreed rate of return, through a platform provided by the authorized intermediary; and
 - (ii) borrower agrees to borrow a specified number and class of securities at an agreed rate or return and to return the same to the lender, together with the agreed return, through a platform provided by the authorized intermediary;
- (c) selection criteria, including minimum liquidity requirements, for securities which shall be available for lending and borrowing;
- (d) the manner in which the margins including marked-to-market losses shall be deposited by the lender and borrower;
- (e) suspension or discipline of securities lending and borrower including grounds for taking such actions;
- (f) terms and conditions under which securities lending and borrowing may be undertaken;
- (g) recording and publishing of details of securities lending and borrowing by the authorized intermediary;
- (h) fee, charges, contributions and deposits payable for facilities and services provided for securities lending and borrowing; and
- (i) any other matter as deemed necessary for the effective enforcement of these rules.

CHAPTER VI PLEDGING

31. Conditions applicable for pledge of securities. — No securities broker shall pledge or deposit any security on account of a customer as collateral except as provided below, namely: —

- (a) the pledge or deposit is in favour of or with a securities exchange or a clearing house in respect of margin requirements relating to the transactions or trades of such customer as required under the relevant regulatory framework;
- (b) the pledge or deposit is in favour of or with a financial institution in respect of margin financing extended by such financial institutions in

- respect of transactions of such customers under the margin financing facility or any other form of financing as allowed by the Commission;
- (c) the pledge or deposit is in favour of or with a financial institution to borrow funds, provided that the customer has authorized the broker in the manner specified by the Commission; and
 - (d) the pledge or deposit is for any other purpose as permitted under applicable laws and regulations, provided the customer has authorized the broker in the manner specified by the Commission.

CHAPTER VII MISCELLANEOUS

32. Power of the Commission to issue directives, circulars, etc. - The Commission may issue such directives and circulars, as are necessary to carry out the purposes of these rules.

33. Securities Broker's obligations. — (1) In addition to the securities brokers' obligations under the Securities Brokers (licencing and operations) Regulations, 2016, a broker acting on behalf of its customers in any of the leveraged markets or pledging the securities of a customer shall ensure that —

- (a) no transaction is executed by the broker on behalf of a customer unless an appropriate agreement has been executed between the securities broker and such customer;
- (b) all provisions of the Anti-Money Laundering Act, 2010 (Act VII of 2010) and any rules and regulations made thereunder are complied with at all times;
- (c) all risks involved in the relevant transactions have been fully disclosed and the broker has obtained a written confirmation from its customers that they have understood and have the ability to bear the risks in such transactions; and
- (d) the options available to a customer in respect of various financing facilities in the securities markets have been fully disclosed and explained to the customers.

(2) The broker shall evaluate the credit worthiness of its customers through a proper credit risk assessment methodology and assign credit limits to each customer beyond which the customer shall not be allowed to avail financing under margin financing and margin trading.

(3) A broker shall maintain records in respect of its compliance with the aforesaid obligations and such records shall be open to inspection by the Commission at any time.

34. Prohibition. — No securities broker shall extend credit and lend, borrow or pledge customer's securities, by whatever name called or in whatsoever manner, , or purport

to do so, except in accordance with and to the extent permitted by the provisions of these rules, regulations or any directives or circulars issued by the Commission.

35. Penalty. — A person who contravenes or fails to comply with any provision of these rules regulations or any directives or circulars issued under the Act by the Commission, shall, in addition to any action authorized under these rules, be liable to any and all actions authorized by the Act for such contravention or failure.

36. Repeal and Saving. — (1) The Securities (Leveraged Markets and Pledging) Rules, 2011 are hereby repealed.

(2) Anything done, actions taken, orders passed, registration granted, notifications issued, proceedings initiated and instituted, prosecutions filed, processes or communications issued and powers conferred, assumed or exercised by the Commission under the Securities (Leveraged Markets and Pledging) Rules, 2011, shall, on the coming into operation of these Rules, be deemed to have been validly done, taken, passed, granted, issued, initiated or instituted, filed, conferred, assumed and exercised and every action, prosecution or proceeding instituted and every order, directive, notification, circular etc. issued by the Commission shall be deemed to have been initiated, instituted or issued under these Rules and shall be proceeded with to completion and be enforced and have effect accordingly.

-.-.-.-

FORM I

[See rule 3(4)]

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

**CERTIFICATE OF REGISTRATION
AUTHORIZED INTERMEDIARY**

In exercise of the powers conferred by rule 3 of Securities (Leveraged Markets and Pledging) Rules, 2017 the Securities and Exchange Commission of Pakistan hereby grants a certificate of registration to _____, as an Authorized Intermediary subject to the conditions prescribed under the Securities (Leveraged Markets and Pledging) Rules, 2017 or as may be specified or imposed hereafter by the Commission.

The registration number of the authorized intermediary is _____.

Dated: _____

Place: ISLAMABAD

By order

Sd/-

For and on behalf of

THE SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

FORM II

[See rule 9 (1) (e)]

AFFIDAVIT

Affidavit of _____ daughter/son/wife of _____ resident of _____ and holding CNIC/Passport No. _____

I the above named deponent, do hereby state on oath solemnly affirm as under:-

1. ¹That I am the _____ of _____, and I am well conversant with the facts deposed below..
2. ²_____ is not in default of any regulatory requirement.
3. ³_____ has not been convicted of any fraud under any law, any offence under the laws administered by the Commission or any other offence involving moral turpitude. ⁴[None of the partners, directors and substantial shareholders of _____, as the case may be, has been convicted of a fraud under any law, an offence under the laws administered by the Commission or any other offence involving moral turpitude.
4. No adverse findings of mismanagement or misappropriation have been given against _____ ⁵[or any of its partners, directors or substantial shareholders] in any inquiry or investigation ordered by the Commission.
5. ⁶_____ is not undergoing any proceedings with respect to insolvency nor any such proceedings are threatened.
6. The statements made and the information given along with the application under rule 8 of the Securities (Leveraged Markets and Pledging) Rules, 2017 is correct and that there are no facts which have been concealed.
7. That I have no objection if the Securities and Exchange Commission of Pakistan requests or obtains information about me from any third party.
8. That all the documents provided to Securities Exchange Commission of Pakistan are true and complete copies of the originals.

DEPONENT

The Deponent is identified by me

Signature _____
ADVOCATE
(Name)

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)

¹ Where applicant is a body corporate or a firm

² Name of the applicant

³ Name of the applicant

⁴ Where applicant is a body corporate or a firm

⁵ Where applicant is a body corporate or a firm

⁶ Name of the applicant

FORM III
[See rule 17(1)(e)]

AFFIDAVIT

Affidavit of _____ daughter/son/wife of _____ resident of _____
_____ and holding CNIC/Passport No. _____

I the above named deponent, do hereby state on oath/solemnly affirm as under:-

1. ¹ That I am the _____ of _____, and I am well conversant with the facts deposed below..
2. ² _____ is not in default of any regulatory requirement.
3. ³ _____ has not been convicted of a fraud under any law, any offence under the laws administered by the Commission or any other offence involving moral turpitude. ⁴[None of the partners, directors and substantial shareholders of _____, as the case may be, has been convicted of a fraud under any law, an offence under the laws administered by the Commission or any other offence involving moral turpitude.
4. No adverse findings of mismanagement or misappropriation have been given against _____
⁵[or any of its partners, directors or substantial shareholders] in any inquiry or investigation ordered by the Commission.
5. ⁶ _____ is not undergoing any proceedings with respect to insolvency nor any such proceedings are threatened.
6. The statements made and the information given along with the application under rule 8 of the Securities (Leveraged Markets and Pledging) Rules, 2017 is correct and that there are no facts which have been concealed.
7. That I have no objection if ⁷ _____ requests or obtains information about me from any third party.
8. That all the documents provided to ⁸ _____ are true and complete copies of the originals.

DEPONENT

The Deponent is identified by me

Signature _____
ADVOCATE
(Name)

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)

¹ Where applicant is a body corporate or a firm

² Name of the applicant

³ Name of the applicant

⁴ Where applicant is a body corporate or a firm

⁵ Where applicant is a body corporate or a firm

⁶ Name of the applicant

⁷ Name of the authorized intermediary

⁸ Name of the authorized intermediary

FORM IV
[See rule 25(1) (e)]

AFFIDAVIT

Affidavit of _____ daughter/son/wife of _____ resident of _____
and holding CNIC/Passport No. _____

1. ¹That I am the _____ of _____, and I am well conversant with the facts deposed below.
2. ²_____ is not in default of any regulatory requirement.
3. ³_____ has not been convicted of any fraud offence under the laws administered by the Commission or any other offence involving moral turpitude. ⁴[None of the partners, directors and substantial shareholders of _____, as the case may be, has been convicted of any fraud, offence under the laws administered by the Commission or any other offence involving moral turpitude.
4. No adverse findings of mismanagement or misappropriation have been given against _____
⁵[or any of its partners, directors or substantial shareholders] in any inquiry or investigation ordered by the Commission.
5. ⁶_____ is not undergoing any proceedings with respect to insolvency nor any such proceedings are threatened.
6. The statements made and the information given along with the application under rule 8 of the Securities (Leveraged Markets and Pledging) Rules, 2017 is correct and that there are no facts which have been concealed.
7. That I have no objection if ⁷_____ requests or obtains information about me from any third party.
8. That all the documents provided to ⁸_____ are true and complete copies of the originals.

DEPONENT

The Deponent is identified by me

Signature _____

**ADVOCATE
(Name)**

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)**

¹ Where applicant is a body corporate or a firm

² Name of the applicant

³ Name of the applicant

⁴ Where applicant is a body corporate or a firm

⁵ Where applicant is a body corporate or a firm

⁶ Name of the applicant

⁷ Name of the authorized intermediary

⁸ Name of the authorized intermediary

Form V

[See rule 13 (b)]

The margin financing agreement shall, *inter alia*, specify the following, namely:-

- (a) Name of the margin financier and financee;
- (b) Date and term of the agreement;
- (c) Margin financing limits;
- (d) Markup or profit rate applicable for margin financing;
- (e) Acceptable form of collateral to be deposited by the financee;
- (f) Terms of agreement with provisions for renewal;
- (g) Securities for which margin financing shall be provided;
- (h) Conditions under which agreement may be altered, terminated and implications thereof;
- (ha) Conditions for early termination of financing extended for particular securities or securities;
- (i) Default management procedures that shall apply in the event of default by a margin financier or financee in completing their respective obligations as per rules; and
- (j) Signature(s) of the authorized persons of margin financiers and financee.

Form VI

[See rule 22(1)(a)]

The agreement between a broker and its customer for use of customer's funds for providing financing for margin trading shall, *inter alia*, specify the following, namely:-

- (a) names and particulars of the parties;
- (b) date and term of the agreement;
- (a) financing Limits under margin trading;
- (b) representation by the customer that the funds being provided for margin trading are its own funds and not obtained or borrowed from any other person..
- (d) terms and conditions for markup or profit rates to be charged;
- (e) applicable fee and charges;
- (e) rights and obligation of both parties;
- (f) terms of agreement with provisions for renewal;
- (g) securities for which financing shall be provided in margin trading;
- (h) conditions under which agreement may be altered, terminated and implications thereof;
- (i) adequate disclosures of risks
- (j) default management procedures that shall apply in the event of default in completing their respective obligations as per the Rules and authorized intermediary's regulations approved by the Commission; and
- (k) signature(s) of the authorized representative of the parties.

[No. SMD/SE/2(6)2002]



(Bilal Rasul)

Secretary to the Commission