

PART II

Notification

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN NOTIFICATION

Islamabad, April 1, 2003.

S.R.O. 310(I)/2003.. In exercise of the powers conferred by section 282 B of the Companies Ordinance, 1984 (XLVII of 1984), the Federal Government is pleased to make the following rules, namely:

**THE NON-BANKING FINANCE COMPANIES (ESTABLISHMENT AND REGULATION)  
RULES, 2003**

**CHAPTER -I General**

1.

Short title and commencement.. (1) These rules may be called the Non- Banking Finance Companies (Establishment and Regulation) Rules, 2003.

(2) They shall come into force at once.

2.

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

(i) "Administrator" means a person appointed by the Commission to manage the affairs of a closed-end fund or venture capital fund upon cancellation of such licence granted to the NBFC by the Commission to operate as investment adviser or to manage the venture capital fund, subject to such terms and conditions as may be deemed appropriate by the Commission;

(ii) "asset management company" means a company which has been licensed by the Commission to offer investment schemes under trust deeds and to issue redeemable securities;

(iii) "asset management services" mean the services provided for management of open-ended schemes and include offering of investment schemes under trust deeds and issue of redeemable securities;

(iv) "assets" mean properties of all kinds including shares, securities, deposits, right and bonus shares, cash, bank balances, profits, dividends, fees, commissions, all receivables, claims, contracts, licences, privileges, accrued or accruing or contingent, the beneficial ownership of which vests in the shareholders of an investment company or certificate holders of a close-end scheme or unit holders of open-ended schemes;

(v) "associated companies" include associated issuer, associated client, companies and associated undertakings as defined in sub-section (2) of section 2 of the Ordinance;

(vi) "bankers' acceptance" means a draft drawn on a commercial bank by an individual or firm ordering the drawee bank to pay to the order of a certain person a specified sum of money,

either on demand or at some future specified date, and accepted by the drawee;

(vii) "central depository company" means a company formed to establish and operate a system for the central handling of securities, whether listed or not on a stock exchange, whereby such securities are deposited with and held in custody by, or registered in the name of, the company as a nominee for the depositors and dealings in respect of such securities are effected by means of entries in securities accounts without the physical delivery of scrips;

(viii) "Certificate of Investment or Deposit" means a certificate of investment or certificate of deposit issued by a NBFC, duly licensed by the Commission to undertake leasing or investment finance services or housing finance services and the permission to issue certificates of investment or deposit has been obtained by such NBFC from the Commission in terms of sub-rule (2) of rule 12;

(ix) "closed-end fund" means an investment company or a closed-end scheme;

(x) "closed-end scheme" means a scheme constituted by way of trust to raise funds through issue of certificates to the public for investing in securities including money market instruments for a definite or indefinite period but which does not continuously offer certificates entitling the holder of such certificates, to receive, on demand, his proportionate share of the net assets of the closed-end scheme;

(xi) "close relative" includes spouse and minor children;

(xii) "collective investment scheme" includes a closed-end fund and an open-ended scheme;

(xiii) "Commission" means the Securities and Exchange Commission of Pakistan established under the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997);

(xiv) "company" means a company incorporated under the Companies Ordinance, 1984 (XLVII of 1984);

(xv) "connected person" in relation to a NBFC, means,

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

(b) any person or company controlled by a person who or which meets one or both, of the descriptions given in subclause (a);

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

(d) any director or officer of that NBFC, or the closed-end fund being managed by it, or of any of their connected persons as specified in sub-clauses (a), (b) and (c);

(xvi) "constitutive documents" mean the principal documents governing the formation of a closed-end scheme or an open-ended scheme and all related material agreements;

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

(xviii) "distribution function" in relation to a NBFC licensed to operate as an asset management company, means the functions with regard to,

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

(b) issuing receipts in respect of the applications received in accordance with clause (a);

(c) issuing contract notes to the applicants in accordance with the terms of the open-ended scheme; and

(d) receiving redemption notices, transfer instructions and conversion notices from the holders for immediate transmission to the asset management company or the open-ended scheme;

(xix) "equity" includes paid up share capital, reserves and unappropriated profits excluding deferred tax reserves, Surplus on Revaluation of Fixed Assets Account as described in section 235 of the Ordinance and treasury stocks;

(xx) "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;

(xxi) "form" means the forms annexed to the rules;

(xxii) "housing finance company" means a company licensed to provide housing finance services as mentioned in rule 20;

(xxiii) "housing finance services" mean financial services related to development and construction of residential and commercial properties and comprise the services as specified in rule 20;

(xxiv) "investment adviser" means, a company licensed by the Commission to engage in investment advisory services;

(xxv) "investment advisory services" mean the services provided for management of closed-end funds and include the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing or selling of securities for remuneration ;

(xxvi) "investment company" means a company registered with the Commission under rule 38 to engage principally or wholly in buying and selling securities of other companies and includes a company, not being a holding company, the investment of which in the share capital of other companies at any one time is of an amount equivalent to eighty per cent of the aggregate of its own paid up capital and free reserves but does not include a bank or an insurance company or a corporation which is a member of a stock exchange;

(xxvii) "investment finance company" means a company licensed by the Commission to provide investment finance services as mentioned in rule 14;

(xxviii) "investment finance services" include money market activities, capital market activities, project finance activities, corporate finance services and general services as described in rule 14;

(xxix) "leasing" includes financial services provided on operating lease or finance lease basis, in accordance with International Accounting Standard-17;

(xxx) "leasing company" means a company licensed by the Commission to undertake leasing;

(xxxii) "liquid net worth" means the book value or net worth of a NBFC reduced by its fixed assets and direct investment of more than twenty per cent in the paid up capital of client enterprises or a lease or leases in respect of its assets aggregating more than twenty per cent of the total assets of the enterprise;

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

(xxxiv) "NBFC" means a non-banking finance company that is licensed by the Commission to engage in one or more forms of business in terms of rule 5 provided that its memorandum and articles of association permits it to do so, and includes asset management company, discount house, housing finance company, investment adviser, investment finance company, leasing company, venture capital company and such other company or body corporate as the Federal Government may, by notification in the Official Gazette, specify for the purpose;

(xxxv) "net assets", in relation to a collective investment scheme, means the excess of assets over liabilities of the collective investment scheme, such excess being computed in the manner specified hereunder, namely:

(a) a security listed on a stock exchange shall be valued at its last sale price on such exchange on the date on which it is valued or if such exchange is not open on such date, then at its last sale price on the next preceding date on which such exchange was open and if no sale is reported for such date the security shall be valued at an amount neither higher than the closing asked price nor lower than the closing bid price;

(b) an investment purchased and awaiting payment against delivery shall be included for valuation purposes as a security held and the cash account of the collective investment scheme shall be adjusted to reflect the purchase price including brokers' commission and other expenses incurred in the purchase thereof but not disbursed as of the valuation date;

(c) an investment sold but not delivered pending receipt of proceeds shall be valued at the net sale price;

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

(e) mark-up accrued on any mark-up-bearing security in the portfolio shall be included as an asset of the collective investment scheme if such accrued mark-up is not otherwise included in the valuation of the security;

(f) any other income accrued upto the date on which computation was made shall also be included in the assets;



(g) all liabilities, expenses, taxes and other charges due or accrued up to the date of computation which are chargeable under these rules, other than the paid-up capital of the closed-end fund, shall be deducted from the value of the assets; and

(h) the remuneration accrued upto the date of computation payable to the investment adviser or asset management company, as the case may be, for providing management and other services shall be included as an expense;

(i) a security not listed or quoted on a stock exchange shall be valued at investment price or its break up value as per last audited accounts, whichever is later;

(xxxv) "net capital", in relation to a NBFC licensed to operate as an investment adviser, means an amount by which the current assets, i.e. cash in hand or in bank, money receivable within a period of twelve months from the date of the balance sheet and such other assets, not being the value of securities referred to in clause (b) of rule 33, as are classified under generally accepted accounting principles, exceed the current liabilities, i.e. money payable within a period of twelve months from the date of the balance sheet and such other liabilities as are classified under generally accepted accounting principles;

(xxxvi) "offering document" means a document containing information on a scheme calculated to invite offer by the public for purchase of the certificates or units in that scheme;

(xxxvii) "open-ended scheme" or "scheme" means a unit trust scheme constituted by way of a trust deed which continuously offers for sale a security which entitles the holder of such security on demand to receive his proportionate share of the net assets of the scheme;

(xxxviii) "Ordinance" means the Companies Ordinance, 1984 (XLVII of 1984);

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

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

(xli) "risk assets" mean marketable securities and other assets held by a NBFC in the ordinary course of its business;

(xlii) "Schedule" means the schedule to these rules;

(xliii) "small entrepreneurs" mean individuals, firms and companies having fixed assets excluding land and building the value of which is not more than twenty million rupees and includes software exporters, software houses and information technology companies;

(xliv) "trust" means a trust established by a deed under the provisions of the Trusts Act, 1882 (II of 1882);

(xlv) "trustee" means a company appointed as a trustee and includes a bank licensed under the Banking Companies Ordinance, 1962 (LVII of 1962) or a trust company which is a subsidiary of such a bank or a banking institution incorporated outside Pakistan acceptable to the Commission or a central depository company approved by the Commission or a NBFC carrying out investment finance services provided it has been approved by the Commission to act as trustee;

(xlvi) "unlisted security" means a security not listed or quoted on a stock exchange;

(xlvi) "venture capital company" means a company licensed by the Commission to invest in venture projects through equity or other instruments whether convertible into equity or not and provides managerial or technical expertise to venture projects, or acts as a management company for management of venture capital fund;

(xlviii) "venture capital fund" means a fund licensed under rule 26;

(xlix) "venture capital investment" means financing of any venture project by a NBFC licensed to operate as a venture capital company or by a venture capital fund being managed by such NBFC, through equity or other instruments whether convertible into equity or not.

(1) "venture project" means a project which is in the start-up phase of its business or commercial operations or undergoing expansion or engaged in a service, manufacturing or production activity based on a new process, service or technology or located in a remote or underdeveloped area of the country and is financed by a venture capital fund or a NBFC licensed as venture capital company and includes a wholly owned subsidiary of the NBFC provided it invests in the projects having the above said characteristics. Provided that the shares of the venture project shall not be listed on any of the stock exchanges in Pakistan at the time of investment by the venture capital company or venture capital fund and the project shall not engage in any of the following business activity, namely:

- (a) arms and ammunitions;
- (b) high explosives;
- (c) radioactive substances;
- (d) security printing, currency and mint;
- (e) manufacture of alcoholic beverages;
- (f) environmentally hazardous projects;
- (g) gold financing;
- (h) real estate; or
- (i) non-banking finance companies.

(2) Words and expressions used but not defined in these rules shall have the same meaning as assigned to them in the Ordinance or the Securities and Exchange Ordinance, 1969 (XVII of 1969).

### 3.

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

- (a) he has not been associated with any illegal banking business, deposit taking or financial dealings;
- (b) he and companies in which he is a director or major shareholder, have no over-due loans or installments outstanding towards any NBFC or any banking or non-banking financial institution;
- (c) neither he nor the companies in which he is a director or major shareholder has defaulted in

the payment of taxes as on the date of application;

(d) he has not been sponsor, director or chief executive of a defaulting cooperative finance society or finance company;

(e) he has never been convicted of fraud or breach of trust or of an offence involving moral turpitude or removed from service for misconduct;

(f) he has neither been adjudged as insolvent nor suspended payment of his debts nor has compounded with his creditors; and

(g) his net-worth (except for a nominee director) as per wealth statements submitted with the tax authorities is not less than twice the amount to be subscribed by him personally.

#### 4.

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

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

(3) The permission granted under sub-rule (2) shall be valid for a period of six months unless extended for a maximum period of three months under special circumstances, on the application of the promoters made before the expiry of said six months. During the validity of this permission, the promoters of the NBFC shall get the NBFC incorporated as a public limited company under the Ordinance.

#### 5.

Conditions for grant of licence.. (1) A NBFC shall make separate applications to the Commission for grant of licences for carrying on different forms of business, as specified in section 282 A of the Ordinance. The said application shall be submitted to the Commission in Form-II along with a non-refundable processing fee amounting to one hundred thousand rupees for each such licence:

Provided however that the Commission if satisfied may issue a single licence for both investment advisory and asset management services.

(2) The Commission, if it is satisfied that the company has fulfilled the conditions specified in rule 3, the promoters thereof are persons of means and integrity having knowledge of matters which the company may have to deal with, in respect of the business for which the licence is being sought, shall grant licence to such company in Form-III for one or more of the functions or activities subject to compliance of the following conditions, namely:

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

(b) the company has separate tiers of minimum equity in respect of the following forms of business as mentioned against each activity, namely:

(i) investment finance services rupees three hundred million;

(ii) leasing rupees two hundred million;

- (iii) venture capital investment rupees five million (for a venture capital company);
  - (iv) discounting services rupees two hundred million;
  - (v) investment advisory and rupees thirty million; asset management services
  - (vi) housing finances services rupees one hundred million.
- (c) the company has allotted at least fifteen per cent of the paid-up share capital to the promoters;
- (d) the company's promoters and directors have given undertaking that they shall not dispose of their shares for a minimum period of three years from the date of commencement of business except with the prior approval of the Commission;
- (e) the company appoints its chief executive who does not hold such office in any other company except for a fund being managed by the said company, provided that prior approval of the Commission has been obtained in this regard;
- (f) the company has given an undertaking that no change in the Memorandum of Association and in the Board of directors shall be made without prior approval of the Commission and that all conditions of rule 3 shall be complied with;
- (g) the company has given an undertaking that the conditions of operation as set out in these rules or regulations or specified by special order of Commission or any direction given by the Commission shall be duly complied with; and
- (h) the company has furnished an undertaking that within ninety days of the grant of certificate of registration it shall furnish evidence to the satisfaction of the Commission that the personnel employed by it for executive positions, research or other related functions possess sufficient educational qualifications and professional experience to undertake the proposed form of business of the NBFC.
- (3) Without prejudice to the conditions prescribed under sub-rule (2) , the Commission may, while granting licence, impose such conditions, as it may deem necessary.
- (4) The licence granted to the NBFC under these rules shall be valid for one year and each licence shall be renewable annually on an application as set out in Form IV along with payment of a fee of rupees twenty five thousand .
- (5) The Commission may, after making such inquiry and after obtaining such further information, as it may consider necessary, renew the licence of such NBFC, for one year in Form V on such conditions, as it may deem necessary.
- (6) Every company in existence which is engaged in one or more forms of business as specified in section 282A of the Ordinance shall apply in writing to the Commission, as provided by sub-section (3) of section 282C of the Ordinance, for grant of a licence along with a non-refundable processing fee of rupees fifty thousand:

Provided that till such time that a new licence is issued, the existing licences or registrations shall be deemed to be valid for the purposes of these rules unless the company fails to apply for licence as specified in sub rule (6) or the Commission declines to grant such licence for reasons to be recorded in writing.



## 6.

Commencement of operations by NBFC.. (1) A NBFC shall commence or continue its business and operations only after it has been issued a licence in terms of rule 5 for forms of business as mentioned in section 282A of the Ordinance and all conditions contained in rule 5 have been complied with.

(2) Without prejudice to the terms and conditions prescribed in rule 7, the Commission may, subsequent to the grant of licence to the NBFC, impose any other condition, as it may deem necessary in the public interest.

## 7.

Conditions applicable to a NBFC.. (1) A NBFC shall, .

(a) maintain such books of accounts and other records as shall depict a true and fair picture of its state of affairs, including,

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

(ii) ledgers (or other comparable record) reflecting assets, liabilities, income and expenses;

(iii) ledgers (or other comparable record) showing securities in the portfolio;

(iv) record of transactions with banks;

(v) record of the meetings of the board of directors; and

(vi) original record of all reports, analysis and memoranda containing investment advice distributed; and

(b) maintain such books of accounts and other records for a period of not less than ten years;

(c) appoint its financial or chief accounting officer who is a chartered accountant or a cost and management accountant or a person having master's degree in commerce or business administration with finance specialization and senior management level experience of at least five years in a bank or development finance institution or modaraba or NBFC;

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

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

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

(g) follow directions issued to protect NBFCs against their involvement in money laundering activities and other unlawful trades.

(2) A NBFC shall not, .

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

(b) purchase anything from, or sell anything to any director, officer, employee of the NBFC or from or to a person who either individually or in concert with close relatives beneficially owns ten per cent or more either of the equity or other securities with voting rights, if any, issued by such NBFC, without the prior approval in writing of the Commission;

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

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

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

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

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

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

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

(3) The existing NBFCs shall raise their respective equity in respect of each form of business to the minimum equity requirement as mentioned in clause (b) of sub-rule (2) of rule 5 latest by the 31st December, 2003, or any such extended date that may be allowed by the Commission, in view of the particular circumstances of the concerned NBFC.

## 8.

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

(2) For opening more branches, the NBFC shall obtain prior permission in writing from the Commission. Every NBFC shall inform the Commission in writing regarding closure of any branch fourteen days prior to such closure.

## 9.

Insurance coverage.. A NBFC shall obtain sufficient insurance coverage on its own or for its clients' benefit against any losses that may be incurred as a result of employee's fraud or gross negligence:

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

## 10.

Exchange fluctuation risk.. A NBFC shall make satisfactory arrangement to insulate itself from exchange fluctuation risks associated with foreign currency obligations and transactions.

11.

Bar on acquiring controlling interest.. Except where it is necessary to protect its investment, a NBFC shall not seek to acquire a controlling interest in any enterprise in which it has invested or has any other interest, which would give it primary responsibility for management.

## CHAPTER – II Operations

12.

Issue of certificates of investment or deposit.. (1) A NBFC that is licensed by the Commission to undertake leasing or housing finance services and which fulfills the following conditions, may apply to the Commission for permission to issue certificates of investment, while a NBFC that is licensed by the Commission to provide investment finance services and which fulfills the following conditions may apply to the Commission for permission to issue certificates of deposit, namely:

- (a) the company has been actively engaged in the leasing or investment finance services or housing finance services business, as the case may be, for a period of two years;
- (b) the corporate and fiduciary conduct of the company and its directors has been satisfactory; and
- (c) the company has obtained credit rating of minimum investment grade from a credit rating agency registered with the Commission, and such credit rating shall be updated at least once every year during the currency of the issue.

(2) If the Commission is satisfied that the NBFC fulfils the conditions of eligibility specified in sub-rule (1), it may give permission to such NBFC to issue certificates of investment or deposit, as the case may be, Provided that the company shall publish the credit rating in each financial statement, advertisement and brochures. If during the tenure of certificates of investment or deposit, the credit rating of the company falls below the investment grade, the permission to issue certificates of investment or deposit shall be cancelled with immediate effect and the NBFC shall neither issue any new certificates of investment or deposit, nor roll-over the existing certificates of investment or deposit upon maturity. The existing certificates of investment or deposit shall be encashed as and when they become due.

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

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

- (a) a certificate of investment or deposit issued under these rules shall be registered in the name of the person to whom it is issued;
- (b) the maturity period of certificate of investment shall not be less than three months, while the maturity period of a certificate of deposit shall not be less than thirty days:

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

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

such advertisement shall contain the credit rating:

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

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

## Leasing

13.

Terms and conditions for undertaking leasing business.. A NBFC licensed by the Commission to undertake leasing business shall operate in accordance with the following conditions, namely:

(a) the NBFC shall,. .

(i) invest at least seventy per cent of its assets in the business of leasing, unless it is duly licensed by the Commission to undertake any other form of business in addition to leasing:

Provided that cash and bank balances and investment in government securities shall be excluded to calculate investment in leasing business for purposes of this definition;

(ii) provide facilities amounting to at least five per cent of its fund based facilities to small entrepreneurs; and

(iii) acquire and maintain membership of Leasing Association of Pakistan and follow the code of conduct prescribed by the said Association; and

(b) the NBFC shall not,. .

(i) hold, deal or trade in real estate except for use of NBFC itself;

(ii) engage in leasing operations pertaining to

(a) open land;

(b) buildings other than factory building, warehouses, hospitals, educational institutions, office buildings and residential undertakings located within and outside the factory premises to be used exclusively as such by a lessee, may be leased subject to a maximum of one hundred twenty square feet per employee.

Provided that such investment does not exceed twenty per cent of the overall lease portfolio of the company; and

(c) furniture or furnishing of any type:

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

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



## Investment Finance Services

### 14.

Terms and conditions for undertaking investment finance services.. A NBFC licensed by the Commission to undertake investment finance services may undertake the following activities or functions provided that its memorandum and articles of association permits it to do so, subject to the conditions prescribed by these rules and any other conditions that may be specified by the Commission from time to time, namely:

(a) in case of money market activities,--

(i) issue certificates of deposit or short-term paper of its own or investments of not less than thirty days maturity subject to the conditions prescribed by these rules and any other conditions that may be specified by the Commission from time to time;

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

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

(iv) act as broker or on its own account in the call money market.

(b) in case of capital market activities,--

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

(ii) provide professional analysis of securities to both institutional and individual investors;

(iii) underwrite stocks and shares, short and long term participation term certificates and other negotiable term obligations of corporations and financial institutions, acting singly or jointly as manager, underwriter and distributor of such issues and taking an active part in all stages of preparation for such issues either public issues or private placement;

(iv) manage portfolios of stocks and shares, pension and provident funds, participation term certificates and other negotiable and debt instruments for both individual and institutional clients on a discretionary as well as non-discretionary basis;

(v) provide margin loans to individual and institutional investors; and

(vi) offer cash management accounts, security management accounts and to facilitate clients so that they are able to select various available investment alternatives at their discretion;

(c) in case of project financing activities,--

(i) make investment in projects through underwriting of public issue of stocks, shares and securities, short-term and long-term participation term certificates and term finance certificates of varying features;

(ii) guarantee and counter-guarantee loans and obligations, including establishment of documentary credits; and

(iii) open letters of credit for their corporate clients for the import of machinery for installation, expansion, balancing, modernization and replacement.

(d) in case of corporate finance services,--

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

(ii) assist companies in private placement of debt and equity, domestically and abroad;

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

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

(v) assist companies with cash management systems;

(vi) prepare feasibility, market or industry studies for companies, both domestic and foreign;

(vi) raise equity, such as through venture capital, for new and existing companies, by acting as financial intermediary;

(viii) act as custodian for securities owned or held by clients pursuant to their instructions and provide each or any of the following services; custody of securities, placing or execution of orders for purchase or sale of securities, receipt of dividends and other income on securities, execution of voting and other rights in connection with securities, holding the securities in the name of investment finance companies on behalf of their clients, and transacting aforesaid activities through nominees, agents, or attorneys; and

(ix) act as nominees, agent, attorney, administrator, executor or trustee for clients; and

(e) in case of general activities,

(i) raise funds through equity, foreign debentures both short and long term, commercial paper issued abroad, sale of short and long term participation term certificates and term finance certificates:

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

(ii) act as authorized seller for securities and certificates, denominated in local or foreign currency, issued by Federal or Provincial Governments, statutory bodies, and state-owned corporations, including instruments of National Savings Schemes (NSS);

(iii) provide safe deposit vaults to clients; and

(iv) handle payments and collections for clients.

## 15.

Total investment in equities.. The total investment in equities shall not exceed the liquid net worth of the NBFC, except equities taken up as consequence of underwriting commitment in which case this limit may be exceeded by the amount of equities taken up for a period of six months and risk assets shall not exceed ten times of the liquid net worth of the NBFC.

16.

Maximum exposure to a single issuer or associated issuer of risk assets.. Unless otherwise specified by the Commission, the maximum exposure to any single issuer, associated companies or associated issuer of risk assets by a NBFC undertaking investment finance services shall not exceed the following limits, .

Risk Assets:

Maximum exposure to single issuer or associated issuer expressed as a per cent of the liquid net worth of the NBFC:

1 2

equity investment ..... ten per cent

margin Loan ..... ten per cent

corporate financial paper and ... thirty five per cent

short-term commercial paper

underwriting of shares and ..... fifty per cent

corporate financial paper

17.

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

18.

Principles for margin loans.. The grant of margin loans to clients shall be governed by the following principles, namely:

(a) the aggregate of margin loans granted by a NBFC duly licensed by the Commission to operate as an investment finance company shall not exceed fifty per cent of its liquid net worth;

(b) the margin to be maintained by the client shall not be less than thirty per cent of the loan amount outstanding calculated as the esidual value obtained after deducting from the portfolio's market value the loan amount outstanding;

(c) margin loans to a single client or associated clients (being the same, in the case of corporate bodies, as associated companies or associated issuers) shall not exceed ten per cent of the liquid net worth of the NBFC; and

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

19.

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

(a) exercise due diligence and prudence to achieve the investment objective of the discretionary clients;

(b) so organize its affairs that discretionary client accounts are managed separately from other activities, each investment or disinvestments decision being taken independently on its own merit without consideration of any other potential or actual involvement of the NBFC; and

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

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

## Housing Finance Services

### 20.

Terms and conditions for undertaking housing finance services.. A NBFC licensed by the Commission to undertake housing finance services may undertake the following activities or functions provided that its memorandum and articles of association permits it to do so, subject to the conditions mentioned below and any other conditions that may be specified by the Commission from time to time, namely,.

- (a) provide long term finance for the purpose of constructing, purchasing or making any additions, alterations or improvement to or in any property;
- (b) lease and rent on hire purchase basis buildings for residential and commercial purposes;
- (c) establish and manage housing schemes without engaging in real estate business or work as subsidiary or holding company or as joint venture of construction business;
- (d) carry out surveys and valuations of land and properties;
- (e) arrange for the insurance of pledged property from the present approved insurance companies;
- (f) manage mortgage investments as agents;
- (g) manage public or private sector projects, in the housing and urban development sectors;
- (h) make loans and advances for house building or non-residential properties to individuals, corporate, projects and housing companies;
- (i) financing against existing property by way of mortgage, provided that the same property shall not be accepted as security unless the facility extended is settled;
- (j) raise funds, in addition to share capital from, .
  - (i) commercial paper, any security and deposits of not less than thirty days maturity approved by the Commission;
  - (ii) foreign debentures both short and long term;
  - (iii) issuance of redeemable capital (participation term certificates or term finance certificates, etc.);
  - (iv) lines of credit;
  - (v) re-discount facilities;



(vi) loans on mark up to other NBFCs providing housing finance services; and

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

#### 21.

Limit on individual exposures.. The NBFC providing housing finance services may extend loans on commercial terms up to sixty per cent of the total cost of the project in the case of residential or non-residential property.

### Venture Capital Investment - (A)

#### 22.

Terms and conditions for operating as a venture capital company..

Unless granted a general or specific waiver by the Commission, a NBFC licensed by the Commission to undertake venture capital investment shall,

(a) not expose more than forty per cent of its equity attributable to venture capital investment segment to any single person or group of companies; Explanation: For the purposes of this rule group of companies shall mean companies controlled by the members of one family including spouse, lineal ascendants and descendants and brothers and sisters; and

(b) disclose in its accounts all investments in companies and group of companies exceeding ten per cent of the paid up capital of the NBFC attributable to the venture capital investment segment.

#### 23.

Private placement.. In addition to its equity attributable to the venture capital investment segment, a NBFC may receive funds for investment in venture projects through private placement of such securities as may be notified by the Commission from time to time.

#### 24.

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

### Venture Capital Investment - (B)

#### 25.

Eligibility conditions of a venture capital fund.. (1) A venture capital fund shall not be granted licence by the Commission unless it fulfills the following conditions, namely:

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

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

(c) it has a minimum equity of fifty million rupees raised through private placement; and

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

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

## 26.

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

(2) For obtaining a licence a venture capital fund shall,.

(a) make an application, as set out in Form VI, to the Commission providing information as sought in Annex thereto, along with all the relevant documents;

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

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

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

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

## 27.

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

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

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

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

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

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

## 28.

Renewal of licence.. (1) The licence granted to the fund under rule 26 shall be valid for one year and shall be renewable annually on payment of a fee of twenty five thousand rupees on an application as set out in Form VIII.

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

conditions as it may deem necessary.

29.

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

30.

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

31.

Enquiry.. The Commission may cause an enquiry to be made, by any person appointed in this behalf, into the affairs of any venture capital fund.

32.

Cancellation of licence.. (1) Where the Commission is of the opinion that a venture capital fund has contravened any provision, or has failed to comply with any requirement of any rule or any provision of applicable laws or conditions imposed by the Commission or order passed by the Commission or direction made or given hereunder, the Commission may, if it considers necessary in the public interest so to do, by order in writing, cancel the licence of the venture capital fund:

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

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

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

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

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

### Investment Advisory Services - (A)

33.

Terms and conditions to operate as Investment Adviser of closed-end fund.. A NBFC licensed by the Commission to operate as an investment adviser shall, in addition to the conditions mentioned in rule 5, provide an undertaking that it shall at all times,.

(a) maintain a net capital balance in the capital account of an amount which is not less than one and a half per cent of the paid-up capital attributable to the investment advisory services

of the NBFC; and

(b) hold or beneficially own equity securities of a closed-end fund of an amount which is neither less than ten per cent nor more than twenty per cent of the paid-up value of such securities:

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

Provided further that investment adviser of a closed-end fund the capital of which has already been issued, subscribed and listed, shall comply with the rule within six months of the registration or authorization of such closed-end fund with the Commission.

### Investment Advisory Services - (B)

34.

Obligations of a NBFC licensed to operate as an investment adviser of a closed-end scheme.. A NBFC licensed by the Commission to operate as an investment adviser of a closed-end scheme shall,.

(a) be obliged to manage the assets of the closed-end scheme in the interest of the certificate holders in good faith and to the best of its ability and without gaining any undue advantage for itself or any of its related parties or its officers;

(b) account to the trustee for any loss in value of the assets of the scheme where such loss has been caused by its negligence, reckless or willful act or omission;

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

(d) maintain at its principal office, proper accounts and records, to enable a complete and accurate view to be formed of the assets and liabilities and the income and expenditure of the closed-end scheme, all transactions for the account of the closed-end scheme and amounts received and distributed by the scheme;

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

(f) within one month of the close of first, second and third quarter of year of account of the closed-end scheme, prepare and transmit to the certificate holders, the Commission and stock exchanges, on which the certificates of the fund are listed, balance sheet as at the end of that quarter, a profit and loss account, a cash flow statement and a statement of changes in equity for that quarter, whether audited or otherwise;

(g) maintain a register of certificate holders of a closed-end scheme and inform the Commission of the address where the register is kept;

(h) appoint, at the establishment of a closed-end scheme and upon any vacancy, an auditor who shall be a chartered accountant and independent of the auditor of the investment adviser and the trustees. Contents of the auditor's report shall be in accordance with Schedule-I; and



- (i) furnish a copy of the annual report together with copies of the balance sheet, income and expenditure account and the auditor's report of a closed-end scheme to the Commission within four months of the close of the accounting period together with a statement containing the following information, namely: (i) total number of certificate holders; and
- (ii) particulars of the personnel (executive, research and other) managing the closed-end scheme.

35.

Cancellation of licence of a NBFC to operate as an investment adviser.

(1) Where the Commission is of the opinion that an NBFC licensed to operate as an investment adviser has contravened any provision, or has otherwise failed to comply with any requirement of the Ordinance or of any rule or direction made or given thereunder, or order passed by the Commission or the conditions of the investment advisory contract or the terms of the custodian agreement or constitutive documents, the Commission may, if it considers necessary in the public interest so to do by order in writing,

(a) cancel or suspend the licence of NBFC to operate as investment adviser provided however where joint licence is issued for investment advisory and asset management services, the Commission may allow the NBFC to continue providing the asset management services; or

(b) remove NBFC from the office of investment adviser of a closed-end fund; or

(c) issue cease and desist orders to NBFC; or

(d) ban defaulters to be employed within the security market temporarily or permanently; or

(e) impose fine ; or

(f) take any combination of the above action.

Provided that no such order shall be made without giving NBFC an opportunity of being heard.

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

(3) A NBFC operating as investment adviser of a closed-end fund who is removed from office under sub-rule (1) shall not be appointed to such office of that company until after the expiration of a period of five years from the date of such removal.

(4) Where NBFC operating as investment adviser of a closed-end fund is removed from that office under sub-rule (1) no director or officer of the investment adviser shall hold the office of director of the investment company or any other office connected with the conduct or management of the affairs of the closed-end scheme until after the expiration of a period of five years from the date of such removal.

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

(6) The Administrator shall receive such remuneration from the closed-end fund as the Commission may determine.

(7) The management of the affairs of the closed-end fund shall, on and from the date of appointment of the Administrator, vest in him.

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

### Investment Advisory Services for Investment Companies- (C)

36.

Regulation of the business of Investment Companies (closed-end funds).. No company shall commence or continue business as an investment company unless it is duly registered with the Commission under rule 38.

37.

Eligibility for registration.. A company proposing to commence or continue business as an investment company shall be eligible for registration if it complies with the following conditions, namely:

- (a) that such company is registered as a public company under the Ordinance;
- (b) that it is to function as a closed-end fund with equity of not less than one hundred million rupees;
- (c) that no director, officer or employee of such company has been convicted of fraud or breach of trust;
- (d) that no director, officer or employee of such company has been adjudicated as insolvent or has suspended payment or has compounded with his creditors; and
- (e) that the promoters and directors of such company are, in the opinion of the Commission, persons of means and integrity and have special knowledge of matters which the company may have to deal with as an investment company.

38.

Registration.. (1) Any company which is eligible for registration under rule 37 as an investment company may make an application as set out in Form X to the Commission for registration under these rules.

(2) An application under sub-rule (1) shall, besides the other documents referred to in Form X, be accompanied by a receipt evidencing a payment of an application processing fee of twenty-five thousand rupees alongwith an undertaking or evidence as per clause (b) of rule 35.

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

- (i) that the applicant is eligible for registration; and
- (ii) that it would be in the interest of the capital market so to do, may grant a certificate of registration to such company as set out in Form XI.

(4) In case an investment company fails to commence business within six months from the date of registration, its registration shall be liable to be cancelled, unless the period has been

extended by the Commission on receipt of application submitted by the company before the expiry of six months.

#### 39.

Appointment of investment adviser.. (1) No investment company shall appoint any NBFC as an investment adviser except by a contract in writing setting out duties, rights and obligations of the parties clearly providing for mechanism to enforce the terms of the contract and the circumstances under which the agreement can be revoked.

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

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

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

(4) The contract shall, among other things, provide that the investment adviser shall bear all expenditure in respect of the secretariat and office space of the company and professional management, including all administrative, accounting and legal services, and that the fee payable to the auditors and the custodian, taxes on income of the company, brokerage, stamp duty and any other duties or taxes connected with the sale or purchase of securities shall be payable by the investment company.

(5) A copy of the investment adviser contract shall be submitted to the Commission for approval.

#### 40.

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

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

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

#### 41.

Authorization of closed-end scheme.. (1) No closed-end scheme shall be offered to the public or continued unless the same is authorized by the Commission.

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

(a) the closed-end scheme's constitutive documents as set out in Schedule-II;

(b) the investment adviser's latest audited accounts, if applicable, and resumes of its

directors;

(c) the trustee's latest audited accounts, if available;

(d) consent letter to act as trustee;

(e) an undertaking from the investment adviser as per clause (b) of rule 33; and

(f) application fee of twenty-five thousand rupees in the form of bank draft payable to the Commission.

#### 42.

De-authorization.. (1) Following the authorization of a closed-end scheme, its investment adviser shall give at least three months' notice to certificate holders if it intends not to maintain such authorization.

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

Provided that authorization shall not be cancelled without providing an opportunity of being heard to the investment adviser.

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

#### 43.

Appointment of trustee.. Every closed-end scheme for which authorization is requested shall appoint a trustee with the approval of the Commission.

#### 44.

Conditions applicable to trustee.. A trustee shall be, .

(a) a scheduled bank licensed under the Banking Companies Ordinance, 1962 (LVII of 1962), which has minimum investment grade rating from a credit rating company registered with the Commission, and is in business for at least five years; or

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

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

(d) a central depository company approved by the Commission; or

(e) a NBFC undertaking investment finance services provided that the said NBFC is not acting as the investment adviser to the closed end scheme, and that such NBFC has been approved by the Commission to act as trustee.

#### 45.

Obligations of trustee of a closed-end scheme.. A trustee shall, .

(a) take into its custody or under its control all the property of the closed-end scheme and hold it in trust for the certificate holders in accordance with the law and the provision of the constitutive documents and the cash and registerable assets shall be registered in the name of,



or to the order of, the trustee;

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

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

(d) ensure that the sale, purchase, issue, and transfer of certificates effected by a closed-end scheme are carried out in accordance with the provisions of the constitutive documents;

(e) carry out the instructions of investment adviser in respect of investments unless they are in conflict with the provisions of the prospectus or offering documents or constitutive documents;

(f) ensure that the investment limits set out in the rules and constitutive documents and the conditions under which the closed-end scheme has been authorized are complied with; and

(g) issue a report to be included in the annual report to be sent to certificate holders whether, in his opinion, the investment adviser has in all material respects managed the closed-end scheme in accordance with the provisions of the constitutive documents, if the investment adviser has not done so, the respects in which it has not done so and the steps which the trustee has taken in respect thereof.

#### 46.

Retirement of trustee.. A trustee may, subject to prior approval of the Commission, retire from his office on appointment of a new trustee and the retirement shall take effect from the date of assumption of assets, of the closed-end scheme, by the newly appointed trustee.

#### 47.

Trustee and the investment adviser to be independent.. (1) The trustee shall not in any way be related to the investment adviser.

(2) A director or employee of the trustee shall not be involved in the affairs of investment adviser.

### Investment Advisory Services - (D)

#### 48.

Invitation to invest.. (1) Advertisements and other invitations to the public in Pakistan to invest in a closed-end fund shall be submitted to the Commission for approval prior to their issue.

(2) The prospectus, in addition to complying with the provisions of the Ordinance, shall contain the information set out in Schedule-III.

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

(4) The approval so granted may be varied or withdrawn by the Commission after giving an opportunity of being heard to the investment adviser.

(5) Approval of an advertisement or invitation shall be valid for a period of sixty days from the date of approval provided that there is no change in the closed-end scheme or the approval has not been extended.

#### 49.

Investment policy and diversification.. (1) The investment policy of a closed-end fund shall be clearly and concisely stated in its Memorandum and Articles of Association or constitutive documents, as the case may be, and in the prospectus or offering document for the sale of its securities.

(2) A closed-end fund having an investment policy of investment in equity securities shall not enter into any transaction in any security other than a security, which is listed on a stock exchange or for the listing of which an application has been made to a stock exchange:

Provided that the closed-end fund may invest up to twenty per cent of its total investment portfolio in the unlisted government securities and secured debt securities having minimum investment grade rating subject to the limits prescribed in sub-rule (3) and to such other conditions as the Commission may from time to time notify in the official Gazette.

(3) The investment of a closed-end fund in any other company or security shall not, at any time, exceed an amount equal to ten per cent of paid-up capital of the closed-end fund or an amount sufficient to acquire ten per cent of issued capital of that other company or issue, whichever is lower:

Provided that a closed-end fund, the capital of which has already been issued, subscribed and listed, if not compliant with the rule, shall bring its investments in line with the rule within such time as the Commission may allow at the time of registration or authorization of the fund.

(4) No closed-end fund shall invest more than twenty five per cent of its net asset value in securities of any one sector as per classification of the stock exchange.

(5) The Commission may, on application of closed-end fund, relax any or all conditions prescribed in the rule, in case of a closed-end fund established for a specific investment objective where the intention to that effect has been expressed in the prospectus or the offering document.

#### 50.

Sale of securities and cost thereof.. (1) Securities representing the capital of a closed-end fund shall be offered to the public at par but no such offer shall be made, --

(a) until the investment adviser of the fund has made or has arranged to make an investment of the amount referred to in clause (b) of rule 35; and

(b) unless the offer has been underwritten by an underwriter appointed by a closed-end fund with the prior approval in writing of the Commission.

(2) A closed-end fund shall not sell any securities for any consideration other than cash.

(3) All expenses incurred in connection with the incorporation and registration or establishment and authorization of a closed-end fund and the offer for sale of the securities of the fund and the distribution of such securities, including commission payable to the underwriter, shall be borne by the investment adviser and shall be reimbursable by the fund in equal amounts paid annually over a period of not less than five years: Provided that an investment adviser of a

closed-end fund, the capital of which has already been issued, subscribed and listed, shall not be entitled to reimbursement of any expense other than that incurred in connection with incorporation and registration or establishment and authorization of the fund.

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

#### 51.

Prohibitions.. No closed-end fund shall,. .

(a) merge with, acquire or takeover any other closed-end fund, unless it has obtained the prior approval of the Commission in writing to the scheme of such merger, acquisition or takeover;

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

(c) make a loan or advance of money to any person except in connection with the normal business of the closed-end fund;

(d) effect a short sale in any security;

(e) purchase any security in a forward contract;

(f) purchase any security on margin;

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

(h) apply any part of its assets to real estate, commodities or commodity contracts

(i) acquire any security of which another closed-end fund is the issuer but this clause shall not apply in case of floatation of a closed-end fund established with a specific investment objective of investing in other collective investment schemes;

(j) make an investment in a company which has the effect of vesting the management, or control over the affairs, of such company in the closed-end scheme;

(k) employ as a broker, directly or indirectly, any director, officer or employee of the closed-end fund or its investment adviser or any connected person or member of family of such person and enter into transactions with any connected broker, which shall equal or exceed ten per cent or more of the transactions of the fund in any one accounting year of that fund:

Provided that the Commission may, in each case on merits, permit the ten per cent to be exceeded if the connected broker offers advantages to the fund not available elsewhere:

Explanation: For the purposes of this clause the term "family" includes spouse, lineal ascendants and descendants and brothers and sisters;

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

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

(n) invest in any security of a company if any director or officer of the investment adviser owns more than five per cent of the total amount of securities issued, or, the directors and

officers of the investment adviser own more than ten per cent of those securities collectively; and

(o) if it is an investment company, appoint fifty per cent or more directors who represent interest of investment adviser.

#### 52.

Transactions with connected person.. (1) No closed-end fund shall without the prior approval of the Commission in writing, purchase from, or sell to, any connected person or employee of the closed-end fund or of the investment adviser thereof or a person who beneficially owns ten per cent or more of the equity securities of the fund or of its investment adviser.

(2) In case cash forming part of the closed-end fund's assets is deposited with the trustee or the custodian, which is a banking company or a NBFC, return shall be paid on the deposit by such trustee or custodian at a rate that is not lower than the rate offered by the said banking company or NBFC to its other depositors on deposits of similar amount and maturity.

#### 53.

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

Explanation: For the purposes of this rule, the word average means average of net assets value calculated on monthly basis during the year.

#### 54.

Annual fee.. A closed-end fund shall pay, as annual fee to the Commission, an amount equal to one tenth of one per cent of its average annual net assets calculated in accordance with rule 53.

#### 55.

Amount distributable to shareholders.. A closed-end fund shall distribute by way of dividend to its shareholders not less than ninety per cent of its income received or derived from sources other than capital gains as reduced by such expenses as are chargeable to a closed end fund under these rules, including the remuneration payable to the investment adviser.

#### 56.

Publication of portfolio securities.. Every closed-end fund shall cause to be published, in the Bulletin or other such publication of the stock exchange on which its securities are listed, the names and the value of its portfolio securities as at the end of each quarter.

#### 57.

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

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

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

(c) ledgers (or other comparable record) showing at any time securities which are receivable or



deliverable;

- (d) record of transactions with the bank;
- (e) register of transaction in securities; and
- (f) record of the meetings of the board of directors.

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

#### 58.

Periodical reports to shareholders, etc.. (1) Every closed-end fund shall transmit to its shareholders, .

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

(b) a quarterly report, within thirty days of the close of first, second and third quarter of the year of account of the fund.

(2) Such report, so far as may be applicable, shall be in accordance with requirements laid down in clauses (e), (f) and (h) of rule 34 and shall contain a statement showing the securities owned at the beginning of the relevant period, securities purchased or sold during such period, and the securities held at the end of such period together with the value (at cost and at market), and the percentage in relation to its own assets and the paid-up capital of the fund whose securities are owned.

(3) The statement of income and expenditure of the closed-end fund shall include a statement of income and expenditure of the investment adviser in relation to the closed-end fund.

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

- (a) total number of security holders;
- (b) particulars of persons holding five per cent or more of the securities of the fund at any time during the year;
- (c) names and number of securities held by directors and officers of the fund;
- (d) any security of any other issuer sold and then bought during any six-month period;
- (e) particulars of the personnel (executive, research and other) of the closed end fund;
- (f) remuneration paid to the investment adviser;
- (g) particulars of the personnel (executive, research and others) of the NBFC operating as investment adviser;
- (h) fee paid to the auditors; and

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

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

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

#### 59.

Appointment of auditor.. A closed-end fund shall appoint an auditor, who shall be a chartered accountant provided that the auditor,

(a) is not the auditor of the NBFC operating as the investment adviser appointed by the investment company; and

(b) has not been the auditor of the same closed-end fund for more than three consecutive years.

#### 60.

Special Audit, etc.. (1) The Commission shall monitor the general financial condition of a closed-end fund and, by recording reasons in writing, may order special audit by an auditor who shall be a chartered accountant as defined in the Chartered Accountants Ordinance, 1961 (X of 1961) and other than the external auditors of the fund or investigation by an inspector to be appointed under the provisions of the Ordinance or appoint both auditor and inspector to carry out detailed scrutiny of the affairs of the fund, and during the course of the scrutiny, may issue such interim orders and directions as may be deemed appropriate.

(2) On receipt of the report or the reports from the auditor or inspector, as the case may be, the Commission may direct the fund to do or to abstain from doing certain acts and issue order for immediate compliance, which shall be complied forthwith, and may initiate further proceedings on the basis of the report.

#### 61.

Conversion of closed-end fund.. (1) A closed-end fund may apply to the Commission for approval for conversion into an open-end scheme or to roll over the fund for another term on maturity of its current period.

(2) Application under sub rule (1) shall be accompanied with a copy of the resolution passed by majority shareholders in the case of investment company and certificate holders in case of close-end scheme and a plan allowing the existing shareholders or certificate holders to exit from the fund by selling their entire holding at a price which shall not be less than the net asset value of the fund to the investment adviser.

(3) The Commission, if satisfied with the plan, competence of the investment adviser and net assets of the fund, may require the applicant to redeem the shares or certificates from those who are not in agreement with the conversion or rolling over the fund and to fulfill such formalities as are necessary including those prescribed by these rules, for an open-ended scheme and grant approval.

62.

Power of Commission to give directions.. The Commission may, if it is satisfied that it is necessary and expedient so to do in the public interest or in the interest of capital market in Pakistan, by order in writing, require such compliance by any investment company, investment adviser, custodian, trustee, individually or collectively, which is essential to enforce the rules including but not limited to ensure safe custody of securities, submission of periodic or special reports, disclosure of information and to make such arrangements, within such time as may be specified in the order, to,.

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

63.

Penalty.. If an investment company refuses to comply with or contravenes any provisions of these rules or directions or orders passed by the Commission thereunder, every director of the investment company who is knowingly and willfully a party to the default shall be liable to a fine not exceeding five hundred thousand rupees and to a further fine not exceeding one thousand rupees for every day after the first during which the default continues.

### Asset Management Services

64.

Terms and conditions to undertake Asset Management Services (Management Company for Open-end Funds).. (1) No NBFC duly licensed by the Commission to provide asset management services shall,.

- (a) merge with, acquire or take over any other asset management company or a scheme, unless it has obtained the prior approval of the Commission in writing to the scheme of such merger, acquisition or takeover;
- (b) pledge any of the securities held or beneficially owned by a scheme except for the benefit of such scheme;
- (c) accept deposits from a scheme;
- (d) make a loan or advance money to any person except in connection with the normal business of the scheme;
- (e) participate in a joint account with others in any transaction;
- (f) apply any part of its assets to real estate except property for its own use;
- (g) make any investment with the purpose of having the effect of vesting the management, or control, in the scheme; and
- (h) employ as a broker, directly or indirectly, any of its director, officer or employee or a member of a family of such person or its management company and enter into transactions with any connected broker, which shall equal or exceed ten per cent or more of the transactions of the fund in any one accounting year of that scheme:

Provided that the Commission may, in each case on merits, permit the ten per cent to be exceeded if the connected broker offers advantages to the fund not available elsewhere:

Explanation: For the purposes of this clause the term "family" includes spouse, lineal ascendants and descendants, brothers and sisters.

65.

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

- (a) be obliged to manage the assets of the scheme in the interest of the unit holders in good faith and to the best of its ability and without gaining any undue advantage for itself or any of its related parties or its officers;
- (b) account to the trustee for any loss in value of the assets of the scheme where such loss has been caused by its negligence, reckless or willful act or omission;
- (c) be responsible for the acts and omissions of all persons to whom it may delegate any of its functions as manager as if they were its own acts and omissions;
- (d) maintain at its principal office, proper accounts and records to enable a complete and accurate view to be formed of the assets and liabilities and the income and expenditure of the scheme, all transactions for the account of the scheme and amounts received by the scheme in respect of issues of units and paid out by the scheme on redemption of units and by way of distributions;
- (e) prepare and transmit the annual report, together with a copy of the balance sheet, income and expenditure account and the auditor's report of a scheme within four months of closing of the accounting period to the unit holders, and the balance sheet and income and expenditure account shall comply with requirements set out in Schedule IV;
- (f) within one month of the close of the first, second and third quarter of its year of account, prepare and transmit to the unit holders and the Commission balance sheet as on the end of that quarter, profit and loss account, cash flow statement and a statement of changes in equity for that quarter, whether audited or otherwise;
- (g) maintain a register of unit holders of a scheme and inform the Commission of the address where the register is kept;
- (h) appoint with the consent of the trustee, at the establishment of a scheme and upon any vacancy, an auditor who shall be a Chartered Accountant and independent of the auditor of the management company and the trustee and such auditor shall not be appointed for more than three consecutive years and contents of the auditor's report shall be in accordance with Schedule IV;
- (i) furnish a copy of the annual report together with copies of the balance sheet, income and expenditure account and the auditor's report of a scheme to the Commission within four months of the close of the accounting period together with a statement containing the following information, namely:
  - (i) total number of unit holders; and
  - (ii) particulars of the personnel (executive, research and other) of the asset management company; and



(j) furnish a copy of the company's annual report together with copies of the balance sheet, income and expenditure account and the auditors' report within four months of the close of the accounting period.

**66.**

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

Explanation: For the purposes of this rule, the word average means the average of net assets calculated during the year for announcing the price of units.

**67.**

Authorization of Scheme.. (1) No unit trust scheme shall be offered to the public unless the same is authorized by the Commission.

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

(a) the scheme's constitutive documents contents of which have been set out in Schedule V;

(b) the latest audited accounts, if applicable, of the NBFC licensed by the Commission to operate as the asset management company and resumes of its directors;

(c) the trustee's latest audited accounts, if available;

(d) letter of consent by the trustee for his appointment;

(e) application fee amounting one million rupees in the form of bank draft payable to the Commission for authorization of such scheme; and

(f) an undertaking from the NBFC licensed by the Commission to undertake asset management services that it will invest or arrange the investment of two hundred and fifty million rupees for a minimum period of two years.

Provided that the undertaking may not be given in case a scheme has been established prior to the commencement of these rules:

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

**68.**

Special audit of a scheme.. (1) The Commission shall monitor general financial condition of the scheme, and, by recoding the reason in writing, may order special audit and appoint an auditor, who shall be a chartered accountant as defined in the Chartered Accountants Ordinance, 1961 (X of 1961), and who shall not be the external auditor of the scheme, to carry out detailed scrutiny of the affairs of the scheme, provided that the Commission may, during the course of the scrutiny, pass such interim orders and give directions as it may deem appropriate.

(2) On receipt of the special audit report, the Commission may direct the asset management

company to do or to abstain from doing certain acts and issue directives for immediate compliance, which shall be complied forthwith.

#### 69.

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

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

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

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

#### 70.

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

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

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

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

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

#### 71.

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

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

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

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

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

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

**72.**

Short sale not allowed.. No scheme shall affect a short sale in a security whether listed or unlisted.

**73.**

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

Explanation: Investment in sale and repurchase transactions involving government securities or such listed securities which are regulated by the stock exchanges shall not be attracted by sub-rule (1) provided risk management parameters are disclosed in the constitutive and offering documents of the scheme with the prior approval of the Commission.

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

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

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

**74.**

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

**75.**

Conditions applicable to trustees.. A trustee shall be,.

(a) a scheduled bank licensed under the Banking Companies Ordinance, 1962 (LVII of 1962), which has minimum investment grade rating from a credit rating company registered with the Commission, and has been in business for at least five years; or

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

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

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

(e) a NBFC undertaking investment finance services provided that the said NBFC is not acting as

the investment adviser to the closed end fund, and that such NBFC has been approved by the Commission to act as trustee.

#### 76.

Obligations of the trustee.. A trustee shall,.

- (a) take into its custody or under its control all the property of the scheme and hold it in trust for the unit holders in accordance with the law and the provision of the constitutive documents and the cash and registerable assets shall be registered in the name of, or to the order of the trustee;
- (b) be liable for any act or omission of any agent with whom any investments are deposited as if they were the act or omission of any nominee in relation to any investment forming part of the property of the scheme; and
- (c) be liable for the acts and omissions of the lenders and its agents in relation to assets forming part of the property of the scheme and where borrowing is undertaken for the account of the scheme, such assets may be registered in the lender's name or in that of a nominee appointed by the lender;
- (d) ensure that the sale, issue, repurchase, redemption and cancellation of units effected by a scheme are carried out in accordance with the provisions of the constitutive documents;
- (e) ensure that the methods adopted by the management company in calculating the value of units are adequate to ensure that the sale, issue, repurchase, redemption and cancellation prices are calculated in accordance with the provisions of the constitutive documents;
- (f) carry out the instructions of the asset management company in respect of investments unless they are in conflict with the provisions of the offering or constitutive documents;
- (g) ensure that the investment and borrowing limitations set out in the constitutive documents and the conditions under which the scheme was authorized are complied with;
- (h) issue a report to be included in the annual report to be sent to unit holders whether, in the trustee's opinion, the asset management company has in all material respects managed the scheme in accordance with the provisions of the constitutive documents, if the asset management company has not done so, the respects in which it has not done so and the steps which the trustee has taken in respect thereof; and
- (i) ensure that unit certificates are not issued until subscription moneys have been paid.

#### 77.

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

#### 78.

Trustee and the asset management company to be independent..

- (1) The trustee shall not in any way be related to the NBFC operating as the asset management company.
- (2) Any director or employee of the trustee shall not be involved in the management company.



79.

Annual fee.. A unit trust scheme shall pay, as annual fee to the Commission, an amount equal to one tenth of one per cent of the average annual net assets of the scheme calculated in accordance with rule 66.

80.

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

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

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

(4) There must be at least four regular dealing days per week.

(5) Any offer price, which the management company or the distribution company quotes or publishes, must be the maximum price payable on purchase and any redemption price must be the net price receivable on redemption.

(6) The maximum interval between the receipt of a properly documented request for redemption of units and the payment of the redemption money to the holder shall not exceed six working days unless redemption has been suspended.

(7) Where a scheme deals at a known price, and based on information available where the price exceeds or falls short of the current value of the underlying assets by more than five per cent, the management company shall defer dealing and calculate a new price as soon as possible.

(8) A permanent change in the method of dealing shall be made after one month's notice to unit holders.

(9) A temporary change shall only be made,.

(a) in exceptional circumstances, having regard to the interests of unit holders;

(b) if the possibility of a change and the circumstances in which it can be made have been fully disclosed in the offering documents; and

(c) with the approval of the trustee.

(10) Suspension of dealings shall be provided for only in exceptional circumstances, having regard to the interests of unit holders.

(11) The management company shall immediately notify the Commission if dealing in units ceases or is suspended and the fact that dealing is suspended shall also be published immediately following such decision in the newspaper in which the scheme's prices are normally published.

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

### 81.

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

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

### 82.

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

(a) cancel or suspend the licence of NBFC to operate as asset management company. Provided that where joint licence is issued for investment advisory and asset management services, the Commission may allow the NBFC to continue providing the investment advisory services; or

(b) remove the NBFC from the office of asset management company of the scheme; or

(c) issue cease and desist orders to the company; or

(d) order compensation to be paid to the unit holders; or

(e) ban defaulters to be employed within the security market temporarily or permanently; or

(f) impose fine; or

(g) take any combination of the above actions:

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

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

(3) A NBFC licensed to operate as an asset management company may apply to the Commission for the cancellation of its licence as an asset management company if it has, with the prior approval of the Commission, transferred management of its scheme to another asset management company or its scheme has been de-authorized under rule 42 or the NBFC no more intends to function as an asset management company.

### 83.

Power of the Commission to give directions to trustees.. The Commission may, if it is satisfied that it is necessary and expedient so to do in the public interest or in the interest of the capital market, by an order in writing, give such directions to the trustees which are essential to enforce the rules including but not limited to making arrangements for safe custody of assets

of the scheme, submission of reports and disclosure of information.

## CHAPTER - III Miscellaneous

84.

Relaxation of rules/directions.. If any difficulty arises in giving effect to any of the provisions of these rules in a particular case, or class of cases, or it would be in the interest of capital market so to do, the Commission may, for reasons to be recorded in writing, relax such requirements subject to such conditions as it may deem fit.

85.

Transitional provisions .. Within six months from the coming into force of these rules, all NBFC shall alter their memorandum and articles of association or any existing contract or agreement and shall take such other actions as are necessary to bring the memorandum and articles of association and working procedures of the NBFC in conformity with the provisions of these rules:

Provided that, notwithstanding the fact that such actions have not been taken or such changes have not been made, the NBFC shall comply with the provisions of these rules as if they are licensed or registered under these rules.

86.

Repeal and savings.. (1) The Leasing Companies (Establishment & Regulation) Rules, 2000, Investment Companies and Investment Advisers Rules, 1971, Asset Management Companies Rules, 1995, Venture Capital Companies and Venture Capital Funds Rules, 2001 are hereby repealed and Finance Division's notifications No. S.R.O. 585(1)/87 dated the 13th July 1987 and S.R.O. 1356(1)/90 dated the 24th December 1990 are hereby rescinded.

(2) Save as otherwise specifically provided, nothing in these rules, or any repeal effected thereby, shall affect or be deemed to affect anything done, action taken, investigation or proceedings commenced, order, appointment, conveyance, mortgage deed, document or agreement made, fee directed, resolution passed, direction given, proceedings taken or instrument executed or issued, under or in pursuance of any rules or notifications repealed by these rules and any such thing, action, investigation, proceedings, order, appointment, conveyance, mortgage deed, document, agreement, fee, resolution, direction, proceedings or instrument shall if in force at the coming into force of these rules and not inconsistent with any of the provisions of these rules, continue to be in force, and have effect as if it were respectively done, taken, commenced, made, directed, passed, given, executed or issued under these rules:

Provided that,.

(a) subject to sub-rule (6) of rule 5 the repeal shall not affect the existing incorporation or registration or licence of a NBFC registered or licensed under any rules or notifications hereby repealed;

(b) any document referring to any repealed rules or notifications relating to NBFCs shall be construed as referring to the corresponding provision of these rules;

(c) all funds and accounts constituted or maintained under these rules shall be deemed to be in continuation of the corresponding funds and accounts constituted or maintained under the repealed rules or notifications relating to NBFC; and

(d) where any offence has been committed under any former rules or notifications relating to NBFC, proceedings may be taken under these rules in respect of such offence after the coming into force of these rules, in the same manner as if the offence had been committed under the

corresponding provision of these rules.

(3) The mention of particular matters in this rule or in any other rule of these rules shall not prejudice the general application of section 6 of the General Clauses Act, 1897 (X of 1897), with regard to the effect of the repeals.

FORM-I

[see rule 4(1)]

### APPLICATION FOR PERMISSION TO FORM A NON – BANKING FINANCE COMPANY

Dated: .

To  
The Securities and Exchange Commission of Pakistan,  
Islamabad.

Dear Sir,

We hereby apply for grant of permission under rule 4 of the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2003, to form a Non-Banking Finance Company under the name and style of \*.

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

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

A receipt of rupees one hundred thousand (Rs. 100,000/-) being the processing fee, deposited in on          is enclosed.

Yours faithfully,

Verification by

Oath Commissioner.

· Name of the company

ANNEXURE TO FORM-I

[see rule 4]

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

1.

Full name, former name if any, father's or husband's name, nationality, residential and business



address, national tax number, present occupation of each sponsor, proposed director, proposed chief executive and proposed chairman of the Board. (Institutional sponsors shall mention their names and addresses only instead of giving all these particulars of their nominee directors).

2.

Names and addresses of companies, firms and other organizations of which the aforesaid sponsors, proposed chief executive and proposed chairman are or have been directors, partners or office holders during the last ten years. Copies of annual accounts of such companies and firms for the last three years alongwith summary of their paid-up share capital, free reserves, profit after tax and dividend payment to be provided.

3.

Financial standing, educational as well as professional qualifications and experience of persons mentioned in paragraph 1 above, supported by documentary evidence.

4.

Percentage of capital, each sponsor proposes to contribute in the proposed company.

5.

Feasibility report of the proposed company.

6.

Evidence of payment of income tax and wealth tax by the sponsors in individual capacity as well as by the companies, firms, etc., where they are or have been directors during the preceding five years.

7.

Net-worth certificate of each sponsor supported by a duly authenticated copy of the latest wealth statement filed with the taxation department. In the case of sponsors or directors residing in countries where filing of wealth statement is not the requirement of law, a certificate of personal net-worth and general reputation issued by a bank of international repute shall be acceptable.

8.

Names of the bankers of the sponsors alongwith their account numbers.

9.

Draft of the Memorandum and Articles of Association.

10.

Affidavit from each person mentioned in paragraph 1 above, stating that

(a) he has not been associated with any illegal banking business, deposit taking or financial dealings;

(b) he and companies in which he is a director or major shareholder have no over-due loans or installments outstanding towards banks or other financial institutions;

(c) neither he nor companies in which he is a director or major shareholder has defaulted in paying taxes as on the date of application;

(d) he has not been sponsor, director or chief executive of a defaulting cooperative finance society or finance company;

(e) he has never been convicted of fraud or breach of trust or of an offence involving moral

turpitude or removed from service for misconduct;

(f) he has neither been adjudged an insolvent nor has defaulted in making payments, to his creditors; and

(g) his net-worth is not less than twice the amount to be subscribed by him personally (not applicable to a nominee director).

FORM-II

[see rule 5(1)]

**APPLICATION FOR OBTAINING LICENCE TO UNDERTAKE OR CARRY OUT \*----- AS NON -  
BANKING FINANCE COMPANY**

Dated, the \_To,

The Securities and Exchange Commission of Pakistan,  
Islamabad.

Dear Sir,

We hereby apply for grant of licence under rule 5 of the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2003, to undertake -----\* as a Non-Banking Finance Company.

2. We hereby furnish the following information,--

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

3. Certified copies of the memorandum and articles of association and certificate of incorporation are enclosed.

4. An affidavit as to the correctness of the above information by the chief executive and two directors is also furnished herewith. We undertake to keep this information upto date by

communicating changes or modifications therein within fourteen days of such change or modifications.

5. A receipt of rupees one hundred thousand (Rs. 100,000/-) being the processing fee, deposited in/on is enclosed.

Yours faithfully,

Signature\_ (To be signed by all the directors)

\*Any one of the activities or functions as mentioned under section 282 (A) of the Companies Ordinance, 1984.

FORM -III

[see rule 5(2)]

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Islamabad, Dated, the -----

Registration No. -----

**LICENCE TO CARRY OUT OR UNDERTAKE \*\_AS NON-BANKING FINANCE COMPANY**

The Securities and Exchange Commission of Pakistan having considered the application for grant of licence under rule 5 of the Non-Banking Finance Company (Establishment and Regulation) Rules, 2003, by \*\* and being satisfied that the said \*\* is eligible for the licence, hereby grants, in exercise of the powers conferred by sub-rule (2) of rule 5 of the Non-Banking Finance Company (Establishment and Regulation) Rules, 2003, licence to \*\* to undertake or carry out \* subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

Signature of the Officer

\*Any one of the activities or functions as mentioned under section 282 A of the Companies Ordinance, 1984

\*\* Name of the Company

(Official Seal and Stamp)

FORM IV

[see rule 5(4)]

**APPLICATION FOR RENEWAL OF LICENCE TO CARRY OUT \*\_----- AS NON-BANKING FINANCE COMPANY**

Islamabad the .....

Securities and Exchange Commission of Pakistan,

Government of Pakistan,

Islamabad

Dear Sir,

We hereby apply for renewal of the licence to carry out \*.....of by \*\*..... under rule 5 of the Non-Banking Finance Company (Establishment and Regulation) Rules, 2003,

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

Original receipt of challan evidencing payment of renewal fee of rupees twenty five thousand (Rs.25000/-) is enclosed.

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

Yours faithfully,

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

\*Any one of the activities or functions as mentioned under section 282 A of the Companies Ordinance, 1984.

\*\* Name of the company.

FORM V

[see rule 5(5)]

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN LICENCE TO CARRY ON \*..... AS NON-BANKING FINANCE COMPANY

Islamabad, the .....

The Securities and Exchange Commission of Pakistan, having considered the application

for renewal of licence to carry out \*.....submitted by

\*\*.....under rule 5 of the Non-Banking Finance Company (Establishment and Regulation) Rules, 2003, and being satisfied that it would be in the public interest so to do, in exercise of powers conferred by sub-rule 5 of rule 5 of the said rules, hereby renew the licence of\*\*..... to carry out \*..... subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

.....

(Signature of the officer)

\* Any one of the activities or functions as mentioned under section 282 A of the Companies Ordinance, 1984.

\*\* Name of the company.

FORM VI



**APPLICATION FORM FOR GRANT OF LICENCE AS A VENTURE CAPITAL FUND**

Securities and Exchange Commission of Pakistan,  
Government of Pakistan,  
Islamabad.

Dear Sir,

We hereby apply for grant of licence to\*..... under sub-rule 2 of rule 26 of the Non-Banking Finance Company (Establishment and Regulation) Rules, 2003.

2. Two copies of the memorandum and articles of association are enclosed. Necessary information required under rule 25 and 26 of the said rules has been annexed. We undertake to keep this information up-to-date at all times.

3. A receipt of rupees fifty thousand (Rs. 50,000/-) being the processing fee, deposited in ----- on ----- is enclosed.

Yours faithfully,

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

Name of the venture capital fund.

Annex to Form VI

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

**PART I**

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

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

**PART II**

1. Whether the company has been incorporated as a public limited company under the Companies Ordinance, 1984. Yes No
2. If yes, whether copy of certificate of incorporation issued by CRO and two copies of memorandum and article of association have been enclosed with the application. Yes No

3. Whether processing fee amounting to Rs..... has been deposited in favour of the Securities and Exchange Commission of Pakistan in designated branch of the bank. Yes No

4. Feasibility report is enclosed. Yes No

FORM VII

[see rule 26(3)]

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

LICENCE TO CARRY ON THE BUSINESS OF A VENTURE CAPITAL FUND

Islamabad, the .....

The Securities and Exchange Commission of Pakistan, having considered the application for grant of licence and being satisfied that \*..... is eligible for grant of licence and that it would be in the public interest so to do, in exercise of the powers conferred by sub-rule 3 of rule 26 of the Non-Banking Finance Company (Establishment and Regulation) Rules, 2003, hereby grants licence to \*..... for a period of one year from..... to..... subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

.....

(Signature of the officer)

Name of the venture capital fund.

FORM VIII

[see rule 28(1)]

APPLICATION FOR RENEWAL OF LICENCE TO OPERATE AS VENTURE CAPITAL FUND

Islamabad the .....

Securities and Exchange Commission of Pakistan,

Government of Pakistan,

Islamabad

Dear Sir,

We hereby apply for renewal of the licence of \*..... under sub-rule (1) of rule 28 of the Non-Banking Finance Company (Establishment and Regulation) Rules, 2003.

2. The licence issued and renewed earlier is due to expire on.....

3. Original receipt of challan evidencing payment of renewal fee of rupees twenty five thousand (Rs. 25,000/-) is enclosed.

4. Schedule of investment clearly indicating project-wise investment made, results of investment as on the date of application and results expected in future is enclosed herewith.

5. It is requested that the licence may be renewed with effect from ..... for a period of one year.

Yours faithfully,

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

Name of the venture capital fund.

FORM IX

[see rule 28(2)]

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

LICENCE TO CARRY ON THE BUSINESS OF A VENTURE CAPITAL FUND

Islamabad, the .....

The Securities and Exchange Commission of Pakistan, having considered the application for renewal of licence submitted by \*.....under sub-rule 1 of rule 30 of the Non-Banking Finance Company (Establishment and Regulation) Rules, 2003, and being satisfied that it would be in the public interest so to do, in exercise of powers conferred by sub-rule (2) of rule 28 of the said rules, hereby renew the licence of\*..... subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

.....

(Signature of the officer)

Name of the venture capital fund.

FORM X

[see rule 38]

FORM OF APPLICATION FOR REGISTRATION AS AN INVESTMENT COMPANY

Islamabad, the ---20---

To

The Securities and Exchange Commission of Pakistan,

Islamabad.

Sir,

We hereby apply for the registration of ..... (name of investment company) under rule 40 of the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2003.

2. Undertakings (in original) from the investment company and the investment adviser in terms of sub-rule (2) of rule 38 of the aforesaid rules and four copies of each of the following documents are enclosed, namely:

- (i) memorandum and articles of association;
- (ii) investment advisory contract;
- (iii) custodian agreement; and
- (iv) underwriting agreement.

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

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

Yours faithfully,

Signature of the Secretary or a director of the applicant company

Annex to form x

1. Name, address and telephone number of the Company  
.....

2. Date and place of incorporation .....

3. Names and addresses of directors, distinguishing between promoter directors and other directors .....

4. Whether any director has been convicted of fraud or breach of trust.....

5. Whether any director has been adjudicated as insolvent or has suspended payment or has compounded with his creditors.....

6. Names and addresses of officers and employees.  
.....

7. Whether any officer or employee has been convicted for fraud or breach of trust.  
.....

8. Whether any officer or employee has been adjudicated as insolvent or has suspended payment or has compounded with his creditors. ....

9. Names of the directors, officers and employees of the investment company and those of the investment adviser thereof who are members of a stock exchange.  
.....



10. Director's interest, direct or indirect in any other investment company.

.....

11. Previous experience of the promoters and directors in the investment field.

.....

12. The financial standing of the promoters and directors (Attach proof, if any).

.....

13. (a) Authorised capital of the company.

(b) Part of such capital proposed to be ..... raised through public offer.

.....

14. Name, address and telephone number of the investment adviser.

.....

15. Name and address of the custodian.

.....

16. Name and address of the underwriter.

.....

17. Financial standing and resources of the underwriter.

.....

FORM XI

[see rule 38(3)]

**CERTIFICATE OF REGISTRATION AS AN INVESTMENT COMPANY SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN**

Islamabad, the-----20---

The Securities and Exchange Commission of Pakistan having considered the application for registration under sub-rule (1) of rule 38 of the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2003, by..... (Name of the Investment Company) and being satisfied that the said..... (Name of the Investment Company) is eligible for registration and that it would be in the interest of the capital market so to do, hereby grants, in exercise of the powers conferred by sub-rule (3) of rule 38 of the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2003, registration to..... (Name of the investment company) subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

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

conditions: -3.

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

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

Signature of the officer.

FORM XII

[see rule 41(2)]

**INFORMATION TO BE CONTAINED IN THE APPLICATION FOR AUTHORIZATION OF A CLOSED-END SCHEME**

Details of the closed-end scheme:

1.

Name of the closed-end scheme.

2.

Structure of the closed-end scheme.

3.

Subscription date and place.

4.

Dealing; daily or weekly or other.

5.

Investment objectives.

Details of the parties to the closed-end scheme:

6.

The investment adviser:

(a) Name.

(b) Registered or business address.

(c) Name of the ultimate holding company, if any.

(d) Previous approval of the Commission to manage authorized closed-end, open-ended schemes and investment companies. If no, the resumes of the directors and most recent audited financial report.

7.

The trustee:

(a) Name.

(b) Registered or business address.

(c) Name of the ultimate holding company, if any.

(d) Previous approval of the Commission as trustee of authorized closed-end and open-ended schemes. If no, names of the directors and most recent audited financial report.

8.

For the trustee and investment adviser:

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

9.

Distribution company:

- (a) Name.
- (b) Registered or business address.
- (c) Name of ultimate holding company.

10.

The auditor:

- (a) Name.
- (b) Registered or business address.

11.

The principal broker:

- (a) Name.
- (b) Registered or business address.
- (c) The approximate percentage of the closed-end scheme's transactions in value of securities carried out by the principal broker within the latest financial year of the closed-end scheme. a.

Whether the trustee, the directors of the closed-end scheme or the investment adviser is a connected person of the principal broker?

FORM XIII

[see rule 67(2)]

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

Details of the scheme :

1.

Name of the scheme.

2.

Structure of the scheme.

3.

Launch; date and place.

4.

Dealing; daily or weekly or other.

5.

Valuation of assets; daily or weekly or other.

6.

Pricing policy.

7.

Investment plans to be offered.

For each Scheme :

8.

Fee structure:

(i) Level of all charges payable by investor; and

(ii) Level or basis of calculation of all charges payable by the scheme. Details of the parties to the scheme :

9.

The asset management company:

(a) Name.

(b) Registered or business address.

(c) Name of the ultimate holding company, if any.

(d) Previous approval of the Authority to manage authorized schemes.

If no, the resumes of the directors and most recent audited financial report.

10.

The trustee:

(a) Name.

(b) Registered or business address.

(c) Name of the ultimate holding company, if any.

(d) Previous approval of the Authority as trustee of authorized schemes. If no, names of the directors and most recent audited financial report.

11.

For the trustee and asset management company:

(a) Which, if any, of these companies are connected persons?



(b) Name anyone who holds appointments, as director or officer, with more than one of these companies.

12.

Distribution company:

- (a) Name.
- (b) Registered or business address.
- (c) Name of ultimate holding company.

13.

The auditor:

- (a) Name.
- (b) Registered or business address.

14.

The principal broker:

- (a) Name.
- (b) Registered or business address.
- (c) The approximate percentage of the scheme's transactions in value of securities carried out by the principal broker within the latest financial year of the scheme.
- (d) Whether the trustee, the directors of the scheme or the asset management company is a connected person of the principal broker?

15.

Legal Adviser:

- (a) Name.
- (b) Registered or business address.

## SCHEDULE-I

### DISCLOSURE REQUIREMENTS FOR CLOSED-END FUNDS

[see rule 34]

1.

General

- (a) Annual report must contain all the information required in this Schedule. Interim reports must at least contain the statement of assets and liabilities and the investment portfolio. Where the closed-end fund has paid or proposes to pay an interim dividend, the amount of dividend should be disclosed;
- (b) All reports must contain comparative figures for the previous period except for the

investment portfolio; and

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

## 2.

Statement of assets and liabilities. The following must be separately disclosed, namely:

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

## 3.

Income statement.

- (1) Total investment income net of withholding tax, broken down by category.
- (2) Total other income, broken down by category.
- (3) Element of income and capital gains.
- (4) An itemized list of various costs which have been debited to the fund including,
  - (a) fees paid to the investment adviser;
  - (b) remuneration of the custodian;
  - (c) remuneration of trustee;
  - (d) amortization of formation costs; director's fee and remuneration;
  - (e) safe custody and bank charges, auditor's remuneration;
  - (f) borrowing expenses, legal and other professional fees; and
  - (g) any other expense borne by the fund.
- (5) Taxes.

- (6) Amounts transferred to and from reserves.
- (7) Net income to be carried forward for distribution.

#### 4.

##### Distribution statement.

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

#### 5.

##### Statement of movements in reserves.

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

#### 6.

##### Notes to the accounts.

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

- (1) Principal accounting policies:
  - (a) the basis of valuation of the assets of the fund including the basis of valuation of unquoted and unlisted securities;
  - (b) the revenue recognition policy regarding dividend income and other income;
  - (c) foreign currency translation, if any;
  - (d) the basis of amortization of formation costs;
  - (e) taxation; and
  - (f) any other accounting policy adopted to deal with items which are judged material or critical

in determining the transactions and in stating the disposition of the closed-end fund.  
Note.—Any changes to the above accounting policies and their financial effects upon the accounts should also be disclosed.

(2) Transactions with connected persons:

The following transactions should be disclosed, namely: -

- (i) details of all transactions entered into during the period between the fund and the investment adviser, or any entity in which these parties or their connected persons have a material interest; and
- (ii) name of any director of the investment adviser or any connected person if such a person becomes entitled to profits from transactions in shares or from management of the fund and the amount of profits to which such person becomes entitled.

(3) Borrowings:

- (i) state whether the borrowings are secured or unsecured and the duration of the borrowings;
- (ii) contingent liabilities and commitments of the fund; and
- (iii) if the free negotiability of any asset is restricted by statutory or contractual requirements, this must be stated.

7.

Contents of the auditors' report. The report of the auditor shall state,

- (i) whether in the auditor's opinion the accounts prepared for that period have been properly prepared in accordance with the relevant provisions of the rules;
- (ii) without prejudice to the foregoing, whether in the auditor's opinion, a true and fair view is given of the disposition of the fund at the end of the period and of the transactions of the fund of the period then ended;
- (iii) if the auditor is of the opinion that proper books and records have not been kept by the fund or the accounts prepared are not in agreement with the fund's books and records, that fact; and
- (iv) if the auditor has failed to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purpose of the audit, that fact.

8.

Investment portfolio.

- (i) number or quantity of each holding together with the description and market value;
- (ii) the total investment stated at cost.
- (iii) the value of each holding as a percentage of the total investments; and
- (iv) statement of movements in portfolio holdings since the end of the preceding accounting period.

9.



Performance table.

(i) A comparative table covering the last three financial years depicting the following:

- (a) total net asset value; and
- (b) net asset value per share or certificate.
- (c) at the end of each financial year.

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

## Schedule-II Closed-end Scheme Constitutive Document

[see rule 41(2)]

1.

Name of closed-end scheme.

2.

Participating parties:

A statement to specify the participating parties including the investment adviser and trustee.

3.

Governing law.

4.

For the trust, --

(a) a statement that the deed is binding on each certificate holder as if he had been a party to it and so to be bound by its provisions and authorizes and requires the trustee and the investment adviser to do as required of them by the terms of the deed;

(b) a provision that a certificate holder is not liable to make any further payments after he had paid the purchase price of his certificates and that no further liability can be imposed on him in respect of the certificates which he holds;

(c) a declaration that the property of the closed-end scheme is held by the trustee on trust for the holders of the certificates pari passu according to the number of certificates held by each holder;

(d) a statement that the trustee will report to certificate holders in accordance with the rules; and

(e) a statement of the manner in which the trustee should retire.

5.

Role of investment adviser:

A statement of list the obligations of the investment adviser in accordance with the rules.

6.

Investment restrictions:

A statement of restrictions on the investment of the property of the closed-end scheme.

7.

Valuation of property method of determining the value of the assets and liabilities and the net asset value of the closed-end scheme.

8.

Fees and charges:

The following must be stated, namely:

- (a) the maximum fee payable to the investment adviser out of the property of the closed-end scheme, expressed as an annual percentage;
- (b) remuneration payable to trustee;
- (c) formation cost to be amortized against the property of the closed-end scheme; and
- (d) all other material fees and charges payable out of the property of the closed-end scheme.

9.

Transactions with connected persons: The following must be stated:

- (a) cash forming part of the property of the closed-end scheme may be placed as deposits with the trustee or an institution licenced to accept deposits; and
- (b) any transaction between the closed-end scheme and the investment adviser or any of their connected persons as principal may only be made with the prior written consent of the trustee.

11.

Distribution policy and date:

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

12.

Annual accounting period:

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

14.

Modification of the trust deeds:

A statement of the means by which modifications to the trust deeds can be effected.

15.

Termination of closed-end scheme:

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

## SCHEDULE-III

### INFORMATION TO BE DISCLOSED IN THE OFFERING DOCUMENT BY Closed -End Schemes

[see rule 48 (2)]

Notice: -This list is not intended to be exhaustive. The trustee of the closed-end scheme or the investment adviser are obliged to disclose any information which may be necessary for investors to make an informed judgment.

Constitution of the closed-end scheme

1.

Name, registered address and place and date of creation of the closed-end scheme, with an indication of its duration if limited. Investment objectives and restrictions

2.

Details of investment objectives and policy, including summary of the investment restrictions. If the nature of the investment policy so dictates, a warning that investment in the closed-end scheme is subject to abnormal risks, and a description of the risks involved.

Operators and principals

3.

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

- (a) the directors of the investment adviser;
- (b) the trustee;
- (c) foreign promoters, if any;
- (d) the auditor;
- (e) the registrar; and
- (f) the legal adviser.

Characteristics of certificates

4.

Minimum investment, if any.

5.

A description of the different types of certificates.

6.

It must be stated that no money should be paid to any intermediary except the certificate holder or his authorized representative. Distribution policy

7.

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

Fees and charges

8.

the level of all fees and charges payable by the closed-end scheme, including management fee, advisory fee, trustee fee and preliminary and floatation expenses.

Taxation

9.

Details of exemptions, taxes levied on the closed-end scheme's income and capital including tax, if any, deductible on distribution to certificate holders.

Reports and accounts

10.

The date of the closed-end scheme's financial year.

11.

Particulars of the reports to be sent to the certificate holders.

Warnings

12.

The following statements or warnings must be prominently displayed in the offering documents,

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

(b) a warning that the price of certificates and the income from them (where income is distributed) may increase or decrease.

General information

13.

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

14.

The date of publication of the prospectus or offering document.

15.

A statement that the investment adviser accepts responsibility for the information contained in the prospectus or offering document as being accurate at the date of publication.

16.

Details of closed-end schemes not authorized must not be shown in the offering document.

Termination of closed-end scheme

17.

A summary of the circumstance in which the closed-end scheme can be wound up.

## SCHEDULE-IV

### CONTENTS OF FINANCIAL REPORTS OF UNIT TRUST SCHEMES

[see rule 65]

## 1.

### General

(a) Annual report must contain all the information required in this Schedule.

Interim reports must at least contain the statement of asset and liabilities and the investment portfolio. Where the scheme has paid or proposes to pay an interim dividend, the amount of dividend should be disclosed.

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

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

## 2.

Statement of assets and liabilities The following must be separately disclosed,

(a) total value of investments;

(b) bank balances;

(c) preliminary and floatation costs;

(d) dividends and other receivables;

(e) amounts receivable on subscription;

(f) bank loan and overdrafts or other forms of borrowings;

(g) amounts payable on redemption;

(h) distribution payable;

(i) total value of all assets;

(j) total value of all liabilities;

(k) net asset value;

(l) number of units issued; and

(m) net asset value per unit.

## 3.

### Income statement

(a) total investment income net of withholding tax, broken down by category;

(b) total other income, broken down by category;



- (c) element of income and capital gains in prices of units sold less those in redemption;
- (d) an itemized list of various costs which have been debited to the scheme including,
  - (i) fees paid to the management company;
  - (ii) remuneration of the trustee;
  - (iii) amortization of formation costs;
  - (iv) director's fee and remuneration;
  - (v) safe custody and bank charges;
  - (vi) auditor's remuneration;
  - (vii) borrowing expenses;
  - (viii) other amounts paid to any connected person of the scheme;
  - (ix) legal and other professional fees; and
  - (x) any other expense borne by the scheme;
- (e) taxes;
- (f) amounts transferred to and from reserves;
- (g) net income to be carried forward for distribution.;

#### 4.

##### Distribution statement

- (a) amount brought forward at the beginning of the period;
- (b) net income for the period;
- (c) interim distribution per unit and date of distribution;
- (d) final distribution per unit and date of distribution; and
- (e) undistributed income carried forward.

#### 5.

##### Statement of movements in reserves

- (a) value of the scheme as at the beginning of the period;
- (b) number of units issued and the amount received upon such issuance;
- (c) number of units redeemed and the amount paid on redemption;
- (d) any item resulting in an increase or decrease in value of the scheme including,
  - (i) surplus or loss on sale of investment;

- (ii) exchange gain or loss;
- (iii) unrealized appreciation or diminution in value of investment; and
- (iv) net income for the period less distribution;
- (e) amounts transferred to and from the revenue account; and
- (f) value of the scheme as at the end of the period.

## 6.

### Note to the accounts

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

(a) principal accounting policies, -

- (i) the basis of valuation of the assets of the scheme including the basis of valuation of unquote and unlisted securities;
- (ii) the revenue recognition policy regarding dividend income and other income;
- (iii) foreign currency translation, if any;
- (iv) the basis of amortization of formation costs;
- (v) taxation; and
- (vi) any other accounting policy adopted to deal with items which are judged material or critical in determining the transactions and in stating the disposition of the scheme.

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

(b) disclosure of transactions with connected persons, -

- (i) details of all transactions entered into during the period between the scheme and the management company, or any entity in which these parties or their connected persons have a material interest; and
  - (ii) name of any director of the management company of any connected person if such a person becomes entitled to profits from transactions in shares or from management of the scheme and the amount of profits to which such person becomes entitled; and
- (c) borrowings,
- (i) state whether the borrowings are secured or unsecured and the duration of the borrowings;
  - (ii) contingent liabilities and commitments of the scheme;
  - (iii) if the free negotiability of any asset is restricted by statutory or contractual requirements, this must be stated.

## 7.

Contents of the auditors' report The report of the auditor should state,

- (a) whether in the auditor's opinion, the accounts prepared for that period have been properly prepared in accordance with the relevant provisions of the trust deed and the rules;
- (b) without prejudice to the foregoing, whether in the auditor's opinion, a true and fair view is given of the disposition of the scheme at the end of the period and of the transactions of the scheme of the period then ended;
- (c) if the auditor is of opinion that proper books and records have not been kept by the scheme or the accounts prepared are not in agreement with the scheme's books and records, that fact; and
- (d) if the auditor has failed to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purpose of the audit, that fact.

## 8.

Investment portfolio

- (a) number or quantity of each holding together with the description and market value;
- (b) the total investment stated at cost;
- (c) the value of each holding as a percentage of net asset value; and
- (d) statement of movements in portfolio holdings since the end of the preceding account period.

## 9.

Performance table

- (a) A comparative table covering the last three financial years and including, for each financial year, at the end of the financial year,
  - (i) total net asset value; and
  - (ii) net asset value per unit; and
- (b) a performance record over the last ten financial years; or if the scheme has not been in existence during the whole of that period in which it has been in existence, showing the highest issue price and the lowest redemption price of the units during each of those years.

## SCHEDULE - V

### CONTENTS OF THE CONSTITUTIVE DOCUMENTS OF UNIT TRUST SCHEMES

[see rule 67(2) (a)]

## 1.

Name of scheme.

## 2.

Participating parties:

A statement to specify the participating parties including the asset management company and trustee.

### 3.

Governing law.

### 4.

For unit trusts,

(a) a statement that the deed is binding on each holder as if he had been a party to it and so to be bound by its provisions and authorizes and requires the trustee and the management company to do as required of them by the terms of the deed;

(b) a provision that a holder is not liable to make any further payments after he had paid the purchase price of his units and that no further liability can be imposed on him in respect of the units which he holds;

(c) a declaration that the property of the scheme is held by the trustee on trust for the holders of the units *pari passu* according to the number of units held by each holder. (This may be modified as appropriate for schemes offering income and accumulation units.);

(d) a statement that the trustee will report to unit holders in accordance with the rules; and

(e) a statement of the manner in which the trustee should retire.

### 5.

Role of management company:

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

### 6.

Investment and borrowing restrictions:

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

### 7.

Valuation of property and pricing:

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

(a) the method of determining the value of the assets and liabilities of the property of the scheme and the net asset value accordingly;

(b) the method of calculating the issue and redemption prices; and

(c) the method of pricing and the circumstances under which it can change.

### 8.

Dealing, suspension and deferral of dealing:

The following must be stated,

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

(b) the maximum interval between the receipt of a properly documented request for redemption of units and the payment of the redemption money to the holder not to exceed six working days; and

(c) the circumstances under which the dealing may be suspended.

#### 9.

Fees and charges:

The following must be stated,

(a) the maximum percentage of the initial charge payable to the management company out of the issue price of a unit;

(b) the maximum fee payable to the management company out of the property of the scheme, expressed as an annual percentage;

(c) remuneration payable to trustee;

(d) formation cost to be amortized against the property of the scheme; and

(e) all other material fees and charges payable out of the property of the scheme.

#### 10.

Transactions with connected persons:

The following must be stated,

(a) cash forming part of the property of the scheme may be placed as deposits with the trustee or an institution licenced to accept deposits;

(b) money can be borrowed from the trustee or any other institution provided that the charges are not higher than the normal bank charges; and

(c) any transaction between the scheme and the management company or any of their connected persons as principal may only be made with the prior written consent of the trustee.

#### 11.

Distribution policy and date:

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

#### 12.

Annual accounting period:

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

#### 13.

Base currency:

A statement of the base currency of the scheme.

#### 14.

Modification of the constitutive documents:

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



15.

Termination of scheme:

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

## SCHEDULE - VI

### INFORMATION TO BE DISCLOSED IN THE OFFERING DOCUMENT BY UNIT TRUST SCHEMES

[see rule 70(2)]

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

1.

Constitution of the scheme:

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

2.

Investment objectives and restrictions :

Details of investment objectives and policy, including summary of the investment and borrowing restrictions. If the nature of the investment policy so dictates, a warning that investment in the scheme is subject to abnormal risks, and a description of the risks involved.

3.

Operators and principals:

The names and registered addressed of the following parties, where applicable,--

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

4.

Characteristics of units:

- (a) minimum investment, if any;
- (b) a description of the different, type of units;

- (c) frequency of valuation and dealing, including days;
- (d) application and redemption procedures;
- (e) the mode of the unit price announcement;
- (f) procedure for subscribing/redeeming/conversion of units;
- (g) the maximum interval between the request for redemption and the payment of the redemption proceeds;
- (h) a summary of the circumstances in which dealing in units may be deferred or suspended; and
- (i) it must be stated that no money should be paid to any intermediary except the unit holder or his authorized representative.

#### 5.

Distribution policy:

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

#### 6.

Fees and charges:

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

#### 7.

Taxation:

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

#### 8.

Reports and accounts

- (a) The date of the scheme's financial year; and
- (b) particulars of the reports to be sent to the unit holders;

#### 9.

Warnings

The following statements or warnings must be prominently displayed in the offering documents,

- (a) if you are in any doubt about the contents of this offering document, you should consult your stock-broker, bank manager, legal adviser or other financial adviser.
- (b) a warning that the price of units and the income from them (where income is distributed) may go increase or decrease.

## 10.

### General information

- (a) a list of constitutive documents and the address where they can be inspected free of charge or purchased;
- (b) the date of publication of the offering document;
- (c) a statement that the asset management company accepts responsibility for the information contained in the offering document as being accurate at the date of publication;
- (d) details of schemes not authorized must not be shown in the offering document.

## 11.

### Termination of scheme

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

No. SC/NBFC-ED/311/2003 Muhammad Hayat Jasra

Executive Director