SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

In the matter of

Review application filed by TPL Properties Limited against the decision of the Commission dated December 29, 2015

Date of Hearing: *May 27, 2016*

Present at Hearing:

Representing TPL Properties Limited:

(i) Mr. Ali Jameel, Chief Executive, TPL Properties Limited

(ii) Mr. Ali Asgher, Chief Financial Officer, TPL Properties Limited

(iii) Dr. Tariq Hassan, Hassan and Hassan

(iv) Syed Bulent Sohail, Hassan and Hassan

(v) Mr. Ahmed Rajani, Vice President, Arif Habib Limited.

(vi) Mr. Khurram Shahid, Head Investment Banking, AKD Securities Limited

(vii) Mr. Adnan Rizvi, Partner, KPMG Taseer Hadi

Assisting the Commission

The following members of the IPO Committee constituted by the Commission for review of all applications for public offering of securities:

(i) Mr. Asif Jalal Bhatti, Executive Director (SMD)

(ii) Mr. Aamir Ali Khan, Executive Director (SCD)

(iii) Mr. Ali Azeem Ikram, Executive Director (Insurance)

(iv) Mr. Nasir Askar, Director (SMD)

(v) Mr. Amir Muhammad Khan Afridi, Director (SMD)

ORDER

This Order shall dispose of the review application dated January 20, 2016 filed by TPL Properties Limited **(TPLP)** against the decision of the Securities Exchange Commission of Pakistan **(Commission)** dated December 29, 2015 through which the application of TPLP for issuance, circulation and publication of prospectus under section 87 and 88 of the Securities Act, 2015 **(Act)** was rejected.

2. TPLP through Arif Habib Limited and AKD Securities Limited (the **Joint Lead Managers, Arrangers and Book Runners to the issue**) (herein after referred to as **Joint Lead Managers)** submitted an application dated October 22, 2015 for seeking approval of the Commission under section 87 and 88 of the Act for issuance, circulation and publication of the prospectus of TPLP (**Application)** for public offering of 55.750 million ordinary shares of face value of PKR 10/- each, representing 27.88% of the total post IPO paid up capital of TPLP of Rs 2 billion, to the public.

3. The proposed issue was to be made as under:

(i) 41,812,500 ordinary shares (75% of the total issue size) were to be offered through book building process to Institutional Investors and eligible Individual Investors (high net worth individuals) at a **floor price of PKR 12.5/- per share**; and

(ii) 13,937,500 ordinary shares (25% of total issue size) were to be offered to the general public i.e. retail investors at a strike price determined through the book building process.

4. The prospectus was cleared by the Pakistan Stock Exchange (Formerly Karachi Stock Exchange) (**PSX**) on October 21, 2015.

5. The main disclosures of the issue as contained in the prospectus were as under:

i.	Paid-up capital of TPLP	Rs 1.442 billion divided into 144.250 million shares of Rs.10/- each.
ii.	Principal business of TPLP	TPLP was incorporated as a private limited company on February 14, 2007. As per the Memorandum of Association, the principal activity of TPLP is "***to invest, purchase, develop and build real estate and to sell, rent out or otherwise dispose off in any manner the real estate including commercial and residential buildings, houses, shops, plots or other premises***". The registered office of TPLP is situated at Center Point Building, Off Shaheed-e-Millat Expressway near KPT Interchange Flyover, Karachi. The main asset of TPLP is the Center Point Building which is located opposite KPT Interchange on Shaheed-e-Millat Expressway, Karachi. The main source of earning of TPLP is rental revenue from Counterpoint.
iii.	Shareholding Structure	(see table below)

Description	Number of Shares	%age
Sponsors		
Muhammad Ali Jameel	19,199,994	13.31%
Jameel Yususf Ahmed	14,800,000	10.26%
TPL Trakker Limited	55,000,000	38.13%
TPL Holdings(Pvt) Limited**	13,104,000	9.08%
Shares held by Sponsors	**102,103,994**	**70.78%**
Shares held by Directors	**6**	**0.00%**
Other shareholders		
Tundra Pakistan Fund	11,591,000	8.04%
Tundra Frontier Opportunity Fund	4,637,000	3.21%
Tundra Sustainable Frontier Fund	2,318,000	1.61%
Others (local financial institutions)	23,600,000	16.36%
Other shareholders	**42,146,000**	**29.22%**
Total	**144,250,000**	**100.00%**

SECURITIES & EXCHANGE COMMISSION OF PAKISTAN SECP

iv	(a) Total Issue Size: (b) Book Building Portion (c) Gen. Public Portion	(a) 55.750 million ordinary shares (27.88% of the post IPO paid up capital) (b) 41.812 million ordinary shares (75 % of the total issue size) (c) 13.938 million ordinary shares (25% of the total issue size)
v	Post Issue Paid-up Capital	Rs 2 Billion
vi	Floor Price and justifications for floor price	Rs. 12.5/- per share (including premium of PKR 2.5/- per share). The following justification was given in the Prospectus for the floor price: (a) Center Point has been graded "PG1" [Project Grade I] by PACRA. (b) Center Point is located in the center of Karachi's business, residential and industrial districts, with access from I.I. Chundrigar Road; Clifton; Defence; Korangi Industrial Area; Sharah-e-Faisal; Gulshan-e-Iqbal; and Airport. (c) TPLP has signed long term tenancy agreements with ten companies including Silk Bank Limited, Philip Morris Pakistan Limited, TRG Pakistan Limited, Gul Ahmed Textile etc. This is expected to ensure TPLP to have a steady stream of predictable cash flow. Reportedly, Center Point has managed to achieve 100% occupancy during FY15 and currently has 100% occupancy level. (d) Center Point is equipped with 2 x 1 MW gas generators for independent power supply and 2 x 1 MW diesel generators for backup. (e) In addition to generating core income from rentals, TPLP's subsidiary namely Centre Point Management services (Pvt.) Limited is also engaged in selling ancillary services i.e. Maintenance, Utilities and IT services to the residents of the buildings.
vii.	Purpose of the Issue	*PKR 400 million from the IPO proceed for settlement of high cost Sponsors loans (principal amount only) which carried mark-up in the range of 14% to 18% per annum. TPLP sponsors extended loan for timely completion of the Center Point building. The repayment of high cost sponsors loan would result in decrease in TPLP financial cost.(Emphasis Added)*
viii.	Utilization of the proceeds of the proposed Issue	Out of the proceeds of the IPO amounting to PKR 697 million (at the floor price of Rs.12.50 per share) Rs.400 million would be utilized for making partial repayment of sponsor's loan and the balance amount of Rs.297 million would be utilized for meeting working capital requirements

6. The initial application of TPLP was examined by the then Licensing and Capital Issue Department (**LCID**) of the Securities Market Division (**SMD**). LCID submitted the following recommendations vide their working paper dated December 1, 2015:

"In the presence of a formal regulatory framework for real estate business wherein several safeguards have been built-in for the protection of the investors especially the general public, the Commission may decide whether companies engaged in real estate business may be allowed to get itself listed on the stock exchange

If the Commission is of the view that such companies may be allowed to get listed on the stock exchange, the Commission may then review, consider and if deemed appropriate grant approval under sub-section (2) of section 87 read with sub-section (1) and (7) of section 88 of the

Securities Act, 2015 for issue, circulation and publication pf prospectus for issue of 55.750 million ordinary shares to the public through book building process"

7. The Commission in its meeting held on December 1, 2015 deliberated the said recommendations and directed LCID to *"review and resubmit the working paper in the light of framework available for REIT and the neighboring country framework for Real Estate Business model for listed companies to incorporate conditions which would ensure maximum investor protection"*.8. In light of the directions of the Commission, LCID studied the Indian regulatory framework of REITs and listed real estate companies and real estate funds in India. LCID observed that Indian REIT regulatory framework did not place any bar on establishment of real estate companies. Further, LCID examined the REIT Regulations 2008 and observed that the Regulations did not explicitly prohibit the flotation of real estate companies. However, in order to protect the interests of the investors, LCID made various requirements of REIT Regulations 2008 like five years financial projections, summary of business plan, summary of latest valuations, etc. in the prospectus. Keeping in view the above, a revised working paper dated December 4, 2015 was submitted wherein LCID recommended as under:

"The prospectus has been examined and found in order. The Commission may review, consider and if deemed appropriate grant approval under sub-section (2) of section 87 read with sub-section (1) and (7) of section 88 of the Securities Act, 2015 for issue, circulation and publication of prospectus for issue of 55.750 million ordinary shares to the public through book building process"

9. The Commission in its meeting held on December 04, 2015 directed LCID to obtain comments of Corporate Supervision Department (**CSD**) on the prospectus. LCID obtained comments of CSD on sponsors loan, mark-up rate on sponsors loans, fair valuation of investment property, distributable reserves, fair value adjustments, etc. and a revised working paper dated December 18, 2015 was submitted to the Commission, wherein LCID recommended as under:

"The prospectus has been examined and found in order. The Commission may review, consider and if deemed appropriate grant approval under sub-section (2) of section 87 read with sub-section (1) and (7) of section 88 of the Securities Act, 2015 for issue, circulation and publication pf prospectus for issue of 55.750 million ordinary shares to the public through book building process"

10. In order to examine the Application, the Commission in its meeting held on December 18, 2015 constituted a cross departmental Committee and directed the Committee to present its findings before the Commission in its meeting to be held on December 23, 2015.

11. The Committee examined the application, made a detailed presentation to the Commission and submitted its report to the Commission. The major observations of the Committee were as under:

(i) "Out of ten tenants, 6 tenants are group/associated companies owing to common shareholders/Directors. Total rental income as per rent agreements reflect that 60% of rental income is from group/associated/related parties. In case, the

sponsor of the project exits, there is likelihood that the entire project's income stream might be adversely affected.

(ii) There are remote chances of partial or entire sale of the project, as the project is pledged against the loans from HBL (56% of 5 billion).

(iii) Dividend policy of the Company depicts that the Company does not intend to distribute any dividends to the shareholders; this fact is also evident from the projection made by the Company.

(iv) Any increase in value of property is neither realizable nor distributable. Therefore, the argument regarding growth in share price without dividend appears to be very subjective.

(v) Purpose of charging the premium focuses on the Project, however, the utilization/purpose of the IPO proceeds do not hint the utilization of proceeds towards the Project.

(vi) The return of the project is extremely low, whereas, investors would be exposed to the equity risk as well as real estate risk.

(vii) Through IPO, the sponsor will repay only 13% of the total debt of the project, whereas paid up capital of 2 billion would be listed, which entails all the above stated risks."

11. In the report, the Committee made the following conclusion and recommendations:

(i) "Track record of the sponsors' group companies with regard to dividend payout has not been found satisfactory.

(ii) The fund being raised through IPO would be primarily utilized for repayment of sponsors' loan and would not result in any benefit to the project.

(iii) The project is complete in all respects and as such does not require any further funding even through issuance of IPO.

(iv) Financial projections are not attractive with regard to the return to the investors and viability of the project is mainly dependent upon the timely repayment of loan to HBL.

It is evident that the proposed IPO carries significant risk as compared to the return being offered, therefore may not be approved for listing.

In future, the criteria applied to evaluate this project such as track record of the sponsors, financial evaluation, project structure, enhanced disclosures, etc. may *also be applied in case of other IPOs. However, application of these criteria may result in discouraging the high risk high return projects for IPO."*

12. The Commission after detailed examination of the Application and considering the findings of the Committee rejected the Application in its meeting held on December 23, 2015. Further, the Commission in the said meeting constituted an IPO Committee to review every application for IPO and submit its recommendation to the Commission. The decision of the Commission was communicated to TPLP vide letter dated December 29, 2015, which is reproduced below in verbatim:

> *" Please refer to your application dated October 22, 2015 received through AKD Securities Ltd. and Arif Habib Ltd., the Consultants to the Issue, seeking approval of the Securities and Exchange Commission of Pakistan (the "Commission") for public offering of 55.750 million ordinary shares under Section 88(1) read with Section 87(2) of the Securities Act, 2015.*
>
> *2. In this regard we would like to inform you that the Commission has examined your application in detail. Further, the subsequent disclosures and amendments made by the Company have also been taken into consideration including the financial projections; details regarding the Company's project namely Center Point as well as past track record of the sponsor's group and associated companies.*
>
> *3. The detailed examination of the instant application for public offering of Rs. 55.75 million shares at a premium of Rs 2.50 per share, inter alia, reveals that the funds to be raised through the proposed IPO would neither result in any substantial benefit to the project nor there is any expected reasonable return for potential investors. Moreover, the viability of entire project, which is mortgaged with a financial institution, is dependent on timely repayment of loan of Rs. 2.1 billion to the said institution.*
>
> *4. For the reasons succinctly mentioned hereinabove, the Commission keeping in view its duty to ensure organize development of Capital Markets and protect investors' confidence concludes that the instant application submitted for approval by your Company to the Commission appears to be prejudicial to the interest of investors. Therefore, your captioned application dated October 22, 2015 for public offering of 55.75 million shares cannot be approved considering the public interest."*

13. Aggrieved by the decision of the Commission, TPLP filed an appeal on January 27, 2016 before the Appellate Bench against the rejection of its application. However, the same was declined vide letter dated February 2, 2016 by the Appellate Bench being not maintainable. In addition to the above, TPLP vide letter dated January 30, 2016 requested the Commission to provide an opportunity to be heard and address the issues highlighted in letter dated December 29, 2015 so that TPLP's application for its listing can be approved by incorporating such measures that the Commission deems necessary.

14. The Commission considering TPLP letter dated January 30, 2016, after deliberations decided to review the matter and directed the IPO Committee to submit recommendation in the matter to the Commission.

15. Subsequent to its review application, TPLP engaged M/s KPMG Taseer Hadi (**KPMG**) and M/s Hassan and Hassan (**Advocates**) (collectively referred to as **Consultants**) for representing its case before the IPO Committee and the Commission.

16. On the request of KPMG, a meeting was scheduled by the IPO Committee for March 24, 2016. On March 24, 2016, KPMG was also accompanied by representatives from the Advocates and CFO of TPLP. KPMG gave a detailed presentation to the IPO Committee on the matter. After detailed deliberations, the IPO Committee advised KPMG and the Advocates to provide some additional information. The information requested by the IPO Committee was provided by the Advocates vide letter dated March 31, 2016. The Advocates in the letter requested for a meeting to discuss the matter at length and find an expeditious and conciliatory way to resolve the same.

17. Subsequent to the provision of the information, on the request of the Advocates, a meeting of the IPO Committee with Dr. Tariq Hassan of Advocates was held in the office of Commissioner (SMD) on April 4, 2016. During the meeting, Dr. Tariq Hassan was advised to submit his grounds in writing.

18. The Advocates vide letter dated April 7, 2016 along with report prepared by KPMG on "***Review of Financial Projections & Assessment of Financial Viability of TPLP***" made their final submissions. The main submissions contained in the letter may be summarized as under:

(i) PSX had vetted and cleared the draft prospectus of TPLP in terms of Regulation 5.5.7 of the Listing Regulations before TPLP applied to the Commission on October 22, 2015 for its approval to publish/circulate the Prospectus.

(ii) While the Commission's concern for investors is understandable, it is pertinent to mention that the applicable law governing issuance of prospectus nowhere empowers the Commission to determine the financial viability of projects. An application for approval of a prospectus is required to be examined by the Commission on the basis of the applicable law whereby the Commission may reasonably exercise its discretion pursuant to the authority delegated to it by the legislature in terms of the Securities Act and the Companies Ordinance, 1984.

(iii) The Order does not identify any deficiency in the Prospectus in any material respect or failure by TPLP to comply with any prescribed condition or requirement applicable to the issuance of the Prospectus. On the contrary, all information (including risks) has been fully disclosed in the Prospectus and, additionally as noted above, all material amendments/deficiencies suggested by the Commission have been duly incorporated/addressed in the Prospectus. Even otherwise, no potential risk will befall the investors as the proposed public offering is underwritten by the book runner/sub-book runner, Arif Habib Limited and AKD Securities Limited, both sound financial institutions.

(iv) The project is financially viable.

19. In light of the final submissions made by the Consultants, the IPO Committee submitted the following detailed findings to the Commission along with its recommendations vide its report dated April 18, 2016.

20. With regard to the Advocates' view that "***the applicable law governing issuance of prospectus nowhere empowers the Commission to determine the financial viability of projects***", the IPO Committee invited the attention of the Commission to the following provisions of Law:

Section of Law	Text of Law
Section 87 of the Securities Act 2015	"***no person shall make a public offer of securities unless the issuer or offeror of the securities has submitted for approval of the Commission, and the Commission has approved the prospectus***"
Section 20 of the SECP Act, 1997 deals with the powers and functions of SECP. Sub-section (1) of section 20 of the SECP Act, 1997	"***the Commission shall have all such powers as may be necessary to perform its duties and functions under this Act***"
Sub-section (4) (a) of section 20 of the SECP Act	"***The Commission shall be responsible for the performance of the following functions:*** ***(a) regulating the issue of securities***"
Sub-section (4) of section 22 of the SECP Act, 1997	"***The Commission when exercising its powers under this Act shall have regard, so far as relevant to the circumstances of the particular case, to -*** ***(a) the viability of the company or body corporate;*** ***(b) the quality and capability of the management of the company or body corporate;*** ***(c) the suitability for listing of the company or body corporate on a stock exchange where applicable;*** ***(d) the interest of the public investors, existing or potential, in the company or body corporate.*** ***(e) ...the general public interest***"

21. The IPO Committee further submitted that section 87 of the Securities Act and sub-section (4) (a) of section 20 read with sub-section (4) of section 22 of the SECP Act not only empowers the Commission to regulate the issuing of securities but also places a responsibility on Commission to ensure that the securities to be issued by a company meets all the stipulated

conditions i.e. viability of the company, suitability for listing and interest of public investors, existing or potential in the company. Therefore, in order to ensure adherence to the stated provision of law, assessment of financial viability is imperative for the Commission to discharge its assigned mandate in a responsible manner. Mere approval of the prospectus by the securities exchange does not guarantee that the Commission would grant its approval for the same. The approval of the Commission is not just a formality or a rubber stamp rather the Commission has unfettered discretion to approve or disapprove an application.

22. The IPO Committee also drew the attention of the Commission towards Order (37 of 2015) of the Appellate Bench passed in the matter of Shifa Hospital Vs Commissioner (CLD) where the Appellate Bench held that "*the fundamental importance and duty of the Commission is the protection of minority shareholders rights. <u>The Commission is not a bystander obliged to grant approval to all requests approved by special resolution. The Commission can review the issue of further shares even if the issue is approved by special resolution</u>, in a situation where the majority shareholders of the Company had voted in a manner coercive or oppressive to the minority or where the majority shareholders had not voted in the interest of shareholders as a class.*"

23. With regard to the financial viability of TPLP, KPMG submitted different financial projections to the IPO Committee on different dates i.e. February 8, March 7, March 31 and April 7, 2016. The observations of the Committee on the projections submitted by KPMG are as under:

(i) **Changes in the utilization of IPO proceeds:** In the prospectus, TPLP had proposed to use the IPO proceeds of Rs 697 million for payment of high cost loans obtained from the sponsors (Rs 400 million) and meet its working capital requirements (Rs 297 million). However, the utilization of IPO proceeds were changed time and again in the projections submitted by KPMG. The changes made by KPMG from time to time may be summarized as under:

					Rs in million
	Utilization of IPO Proceeds				
	Prospectus	Disclosed in KPMG's response dated February 18, 2016		Projections submitted on March 7, 2016	Projections submitted on March 31, 2016
		Main body of response	Annexure E		
Repayment of sponsor loan	400 (TPL Holdings Rs.393 million TPL Trakker Rs.183 million) 57%	197 to TPL Trakker (28%)	313 (45%)	219 (31%)	175 (25%)
Repayment of Habib Bank loan.	-	300 (43%)	-	-	
Repayment of Summit Bank loan	-	200 (29%)	200 (29%)	200 (29%)	200 (29%)
Repayment of finance lease			184 (Total payment 226 million) (26%)	226 (32%)	

Creation of debt service reserve					250 (36%)
Working capital requirements	297 (43%)	-			
Payment of mark-up					11 (2%)
Payment of loans of other banks appearing in the books of CMS					55 (7%)
Carried forward next year				52 (8%)	6 (1%)
Total:	**697**	**697**	**697**	**697**	**697**

(ii) KPMG also made significant changes in the financial projections submitted to the Commission. The multiple downward revisions not only cast a doubt on the integrity of projections submitted by KPMG but also cast a doubt on the future projections of TPLP. The changes made by KPMG in the profitability of TPLP are given below for ready reference:

TPLP Profit after tax					**Rs in million**
FY	**2016**	**2017**	**2018**	**2019**	**2020**
PAT as given in Prospectus	322.86	389.68	463.18	490.86	492.70
Adjustment by KPMG February 18, 2016	**(53.49)**	**(11.81)**	**(35.42)**	**(9.57)**	**40.67**
Further adjustment by KPMG March 7, 2016	**(22.83)**	**(22.68)**	**(30.20)**	**(68.27)**	**(43.82)**
Further adjustment by KPMG April 5, 2016	**(81.88)**	**(41.96)**	**(41.58)**	**(25.61)**	**(23.43)**
Adjusted PAT as per projections submitted on April 5, 2016	164.66	313.23	355.98	387.41	466.12
Difference between projections contained in prospectus and last submission by KPMG	**(158.20)**	**(76.45)**	**(107.20)**	**(103.45)**	**(26.58)**

24. The following projections of TPLP (Post IPO and with dividend payments) were examined by the IPO Committee:

TPL Cash Flow with proposed IPO and projected dividend payments										**Rs in Million**
	2H16	**FY17**	**FY18**	**FY19**	**FY20**	**FY21**	**FY22**	**FY23**	**FY24**	**FY25**
Cash at Beginning	**29.207**	**135.396**	**98.357**	**10.000**	**10.000**	**10.000**	**10.000**	**10.000**	**10.000**	**10.000**
Cash flow										
CF from Operations	47.942	178.611	164.965	197.619	233.361	274.446	317.366	361.693	411.527	456.365
CF from Investing	(1.925)	(0.400)	(0.400)	(0.400)	(0.400)	(7.925)	(0.400)	(0.400)	(0.400)	(0.400)

CF from Financing	60.173	(215.250)	(252.922)	(197.219)	(232.961)	(266.521)	(316.966)	(361.293)	(411.127)	(455.965)
Total Cash inflow/ (outflow)	**106.189**	**(37.039)**	**(88.357)**	-	-	-	-	-	-	-
Cash at end	**135.396**	**98.357**	**10.000**	**10.000**	**10.000**	**10.000**	**10.000**	**10.000**	**10.000**	**10.000**
Dividend payment			**100.000 (5%)**	**100.000 (5%)**	**100.000 (5%)**	**100.000 (5%)**	**200.000 (10%)**	**200.000 (10%)**	**500.000 (25%)**	**500.000 (25%)**
Additional Borrowings required	-	-	**51.828**	**170.531**	**208.289**	**221.979**	**324.034**	**(169.793)**	**88.873**	**44.035**

25. As per the projections, the IPO proceeds were mainly used for payment of loans obtained from related parties (Rs 175 million), payment to financial institutions (Rs 200 million), maintenance of debt service reserve (Rs 250 million) and payment of mark-up (Rs 11 million). Analysis of the projected cash flows of TPLP with the proposed IPO revealed the following:

(i) The project is complete in all respect and the proposed IPO would not enhance the existing revenue generating capacity of the project.

(ii) Through the IPO, TPLP has projected to repay loans amounting to Rs 375 million (Rs 175 million to TPL Trakker and Rs 200 million to Summit Bank) which works out to be only 15% of the loans amounting to Rs 2,481 million outstanding on its books. Despite these repayments, the cash flows of TPLP would not be sufficient to repay the Musharaka installments of Habib Bank Limited and payment of dividend to investors without further borrowing of funds amounting to Rs 1,110 million during the period from 2018 to 2025.

(iii) If these borrowings could not be arranged, TPLP would face problems in repaying the agreed installments of existing loans and dividend payments.

TPL Profit and Loss with proposed IPO and projected dividend payments

Rs in Million

TPLP	**2H16**	**FY17**	**FY18**	**FY19**	**FY20**	**FY21**	**FY22**	**FY23**	**FY24**	**FY25**
Profit after tax	284.415	379.577	419.803	464.394	512.613	565.237	622.106	680.956	745.933	806.580
Gain on fair valuation of property	(220.000)	(231.000)	(242.550)	(254.677)	(267.411)	(280.782)	(294.821)	(309.562)	(325.040)	(341.292)
Adjusted profit after tax	64.415	148.577	177.253	209.717	245.201	284.456	327.285	371.393	420.893	465.288

27. TPLP has projected profits during each financial year. However, these profits include gain on fair revaluation of property which is not distributable in terms of section 248 of the

Companies Ordinance, 1984. Based on the projected dividend payments till 2025, the IRR of the project works out to negative till 2025

28. From the above, it is evident that that the proposed IPO would not add to the revenue generating capacity of the project. TPLP would have to borrow further funds to repay the Musarakah installments to HBL and make dividend payments to the investors.

29. The IPO Committee made the following recommendations:

"The proposed IPO would not enhance capacity of the project in terms of profitability and cash flows as it is complete in all respects. Examination of the IPO with regard to viability of TPLP, suitability for listing of TPLP and general public interest reveals that IPO does not appear to be in the interest of the potential investors in the foreseeable future. In view of the aforesaid, the application filed by TPLP for review of earlier decision of the Commission may be rejected. It is pertinent to mention here that all the observations contained in the earlier report of the Committee on the IPO of TPLP still hold valid.

It is further proposed that the Commission may consider referring back the initial application approved by PSX, for its review due to the following reasons;

(i) *TPL has significantly changed the utilization of the proposed IPO proceeds*

(ii) *Terms of agreement with the lenders including Summit Bank, TPL Trakker, TPL Holdings, etc has also been re-agreed as per projections*

(iii) *Detailed projections in respect of the project have been submitted now by the Company."*

30. After detailed deliberations and in order to give a fair opportunity to TPLP, the Commission on April 20, 2016 decided to share the findings of the IPO Committee with PSX and the Board with the direction to review the matter in detail and give its recommendations along with rationale to the Commission. The decision of the Commission was communicated vide letter dated April 20, 2016.

31. The Board of PSX, after reviewing the letter, observed that specific transactions should not be placed before the Board as the Board has granted the necessary authority to the management of PSX for the IPO process and clearance of draft prospectus after dissolution of the Company Affairs and Corporate Governance Committee in 2012 as part of Corporate Restructuring related to Demutualization of the Exchanges.

32. Further, the Board of PSX, while supporting management's decisions with regard to the listing process, directed the management to study the IPO Committee's Report and observations therein and discuss the same with TPLP, its Joint Lead Managers and KPMG. The Board further advised the management that they should ask TPLP and its advisors to strengthen their proposal to further enhance the interest of minority shareholders and if TPLP provides reasonable comfort in this regard to the satisfaction of PSX, then PSX should communicate the same to the Commission in terms of their review process regarding the IPO application.

34. Subsequently, PSX vide its letter dated May 10, 2016 responded as under:

(i) PSX had detailed discussions with TPLP, its advisors and consultants, and suggested several changes to the original proposal related to utilization of funds from IPO proceeds. Subsequently, PSX has received the following revised schedule for the usage of IPO proceeds:

Particulars	Amount
Repayment of Summit Bank Loan	Rs 200 Million
Maintenance of Debt Service Reserve of Habib Bank Limited	Rs 250 Million
Advance to its subsidiary to prepay National Bank of Pakistan loan	Rs 100 Million
Retained by TPLP as contingency reserve	Rs 146 Million
Total	**Rs 696 Million**

(ii) PSX further informed that TPLP has made the following further changes to strengthen its financial position:

(a) Conversion of TPL Holdings (Pvt) Ltd loan of Rs 100 million to equity and reduction in markup rate on balance outstanding from 14% to 3 months KIBOR.

(b) Reduction in markup rate on outstanding loan balance of TPL Trakker from 14% to 3 months KIBOR + 4%.

(c) Conversion of TPLP outstanding loan to its subsidiary of Rs 346 million into equity.

(d) If the strike price is determined above the floor price of Rs. 12.5 per share, the excess amount raised would be utilized 50% towards payment of Sponsors / Associated companies higher cost loans while balance 50% would be retained by TPLP

(e) The sponsors would retain at least 25% of their shareholding in TPLP for a minimum of four (04) years from the date of public subscription instead of the requirement of three (03) years under the law.

(iii) Based on the above, PSX expressed its views as under:

(a) Minority shareholders interest is sufficiently protected and indicates Sponsor's commitment to the Project.

(b) From the Exchange's perspective, this is clearly a long term capital appreciation investment opportunity in Pakistan's real estate sector which is at present highly underrepresented in the capital market.

(c) The objective of the subject IPO and raising funds from public investors is primarily to restructure the balance sheet by reducing external debt,

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capitalizing of the holding company debt, thus strengthening the near term cash flows as well as keeping a reasonable buffer of cash so that in the first few years debt servicing is facilitated without the need of further borrowing. As long as this aspect is clearly disclosed and articulated in the Prospectus along with key risk factors prominently highlighted, PSX believes it is then up to investors to make a considered decision whether they wish to participate in this primarily long term capital appreciation opportunity in Pakistan's real estate sector.

(d) As far as dividend payment aspect is concerned, current laws and regulations do not stipulate any mandatory dividend payout which is the prerogative of the Board of Directors. Investors participating in the subject IPO, as long as they are dearly informed regarding the nature of the investment opportunity, should be left to decide on their own if dividends are important to them or not along with the associated risks.

(e) Furthermore, assuming there is insufficient positive cash flow for cash dividend payout, a company may choose to share realized profits through issue of stock dividends (bonus shares).

35. Further PSX submitted that "*Based on the above and having studied the KPMG reviewed financial projections, the Exchange would like to submit to SECP to take into consideration the foregoing development in its review process for the subject IPO.*"

36. In order to arrive at a decision on the review application of TPLP, an opportunity of hearing was provided to TPLP by the Commission on May 27, 2016. The hearing was attended on behalf of TPLP by the chief executive and chief financial officer of TPLP, Dr. Tariq Hassan and Syed Bulent Sohail from Hassan and Hassan, representatives from Joint Lead Managers and Mr. Adnan Rizvi from KPMG. The chief executive made a detailed presentation on TPLP to the Commission. The presentation encompassed key facts about TPLP and its associated companies, utilization of IPO proceeds, updated status of the commitments made to the PSX, dividend payments by TPLP and other listed companies, comparison of leverage ratios of TPLP and other listed companies and international jurisdictional study regarding listed real estate companies and REITs. During the hearing, the chief executive of TPLP agreed that major portion of the revenue of TPLP till financial year 2022 would be utilized for honoring its financial commitments towards its creditors and after 2022, TPLP would be in a position to provide any reasonable return to its shareholders. On a question regarding factors that may reduce the revenue generating capacity of TPLP, the chief executive informed that termination of tenancy agreement by any tenant or partial sale of project would have a negative impact on the revenue generating capacity of TPLP. With regard to factors that may enhance the revenue generating capacity of TPLP, the chief executive informed that with the passage of time the valuation of property is bound to increase and in turn would increase the rental values.

37. With regard to role of the Commission in the public offering process, Dr. Tariq Hassan emphasized that the Commission should follow the policy of "Buyer Beware" by ensuring that all the requisite disclosures have been made in the prospectus and let the investors decide

whether they want to invest in any public offering or not. Dr. Tariq Hassan presented his view that Commission has to define its role to the extent it want to indulge itself into the listing process and should not be assuming the role of market forces in determining the fate of any public offering. However, he added that while performing its role as an apex regulator and to maintain the investors' confidence in capital markets, the Commission may impose any specific conditions with regard to a particular sector. Dr. Hassan was of the view that any role played by the Commission to undermine the market forces would negatively impact the entire public offering regime.

37. In view the foregoing, the following areas needed to be discussed by the Commission with regard to TPLP's review request:

- **A. Role of PSX in listing process**
- **B. Role of Commission in listing process**
- **C. Role of Joint Lead Managers**
- **D. Financial viability of TPLP**
- **E. Track record of sponsors and group companies of TPLP**
- **F. Suitability of TPLP for general public**

A. Role of PSX in Listing Process

Securities exchange as a frontline regulator should play a vital role to complement the role played by the Securities Regulators as Apex Regulator in achieving the objectives of securities regulation. This dichotomy of role and responsibility can accrue substantial benefits if properly harnessed.

Being the front line regulator, PSX has the responsibility to maintain a fair and orderly market in the securities that are traded through its facilities. In this regard, PSX is responsible to have a comprehensive and effective mechanism in place to promote quality listing considering the interest of all the stakeholders including general public and the issuers. This is imperative for investors to make a well informed decision with regard to quality of issues while considering any investment through capital markets.

The prospectus of TPLP was cleared by the PSX on October 21, 2015. PSX was required to carry out its due diligence prior to approving the prospectus, not only encompassing the eligibility aspects but also considering the disclosure requirements specific to TPLP public offering for general public

TPLP had obtained Rs. 2.1 billion Musharaka facility from Habib Bank Limited (HBL) vide Musharaka Agreement dated May 26, 2015. As on December 31, 2015, the Musharaka facility accounted for 43% of the assets of TPLP. HBL vide the above agreement had placed the following restrictions on TPLP:

"7.1.3 The customer under takes and covenants that it shall not except with the prior written consent of investment agent (acting on the instructions of the majority participants), which consent shall not be unreasonably withheld

(v) accelerate repayment of any existing debt or financial liability to anyone before its stated maturity date without the prior written permission of the investment agent"

(vi) declare any dividend throughout the tenor of the Musharaka"

(viii) allow any change to its existing shareholding structure"

As part of its due diligence process, PSX was duty bound to examine the contents of Musharaka Agreement to ascertain material restrictions, if any, placed by HBL on TPLP, with the objective to ensure disclosure of the same in the prospectus. The examination of the prospectus by the Commission as cleared by PSX revealed that PSX failed to ensure disclosure of the above material facts i.e. restrictions imposed by HBL on TPLP on distribution of dividends, change in shareholding structure and early repayment of existing debts in the prospectus.

In addition to the above, the following material disclosures were also not part of the prospectus cleared by PSX and the same were incorporated by TPLP on the instructions of the Commission:

(i) With regard to main asset of TPLP i.e. Centre Point,

a. Details regarding title of the property.

b. The name of the valuer, date of the valuation report and the market value including forced sale value determined by the valuer. Further, the copy of the valuation report was also made part of the prospectus.

c. Total land of the Project (in square feet); area developed, area on which building is constructed; area reserved for parking, pathways, corridors and other services.

d. Number of floor of the building.

e. Mechanism for maintenance of the project building.

f. Estimated useful life of the property.

g. Mechanism for maintenance of the property

h. Compliance to building control

i. Total rentable area; area rented out; and area available for rent

j. Major tenants and area rented out to related parties

(ii) Average existing rental rates bifurcating between related parties and other than related parties vis-a-vis rental rates used in the income capitalization model

(iii) The amount of loans availed by TPLP and the amounts outstanding, any covenants imposed by the lenders, nature and amount of charges on TPLP assets.

(iv) Complete details of sponsor's loan including but not limited to the date of sanction of loan, amount of loan, tenor, markup/profit, and other conditions attached thereto.

(v) Reasons for charging high mark-up rates on sponsors loans i.e. 14% - 18%

(vi) Business Plan of the Company

(vii) Dividend history of all the group companies for the past five years.

(viii) Since the shares being offered to the public through this prospectus were not offered under the Real Estate Investment Trusts Regulations, 2015 (REITs Regulations), therefore, disclosure to the investors that they do not have the safeguards envisioned in the REITs Regulations for Unitholders.

(ix) Disclosure regarding the sources of revenue of TPLP

(x) Certificates from the auditors dated December 09, 2015 regarding receipt of sponsors' loan.

Apparently, PSX did not play its due role and approved the prospectus without incorporating the above mentioned material disclosures. It is pertinent to mention here that PSX has delegated the powers for approving any listing application to its management instead of constitution of any committee on the pattern of the erstwhile Companies Affairs Committee prior to demutualization. Moreover, listing fee is one of main sources of revenue for PSX and owing to commercial considerations post demutualization, PSX is exposed to an inherent conflict of interest while processing listing applications.

It is pertinent to mention here that this is not the first time that PSX has approved a prospectus without paying any heed to the disclosure of relevant material information. The Securities Market Division vide its letters dated February 1, 11 and 15, 2016, *inter alia*, highlighted the deficiencies noticed by the Division in the 11 prospectuses duly cleared by PSX in the last two years. The Division further advised PSX as under:

(i) Review and improve its existing criteria for clearance of prospectuses and listing of securities. The improved criteria once finalized may be shared with the Commission for its review.

(ii) Review its regulations for listing of securities and carry out necessary amendments/ improvements therein in light of Securities Act, 2015 including criteria for the clearance of the prospectus and listing of securities and share the updated Listing Regulations/ criteria with the Commission for its review.

(iii) Make appropriate and comprehensive regulations for delisting of securities in light of provisions of the Securities Act particularly section 19 thereof providing therein a mechanism for safeguarding shareholders interest and submit the same for approval of Commission.

(iv) Share the system put in place by PSX, if any, for subsequent monitoring compliance with the commitments made in the prospectus and conditions imposed at the time of approval.

(v) Consider constitution of a committee on the pattern of the erstwhile Companies Affairs Committees comprising members of the Regulatory Affairs Committee; independent market participants and professionals with accounting, legal and business background; and management.

As of date, PSX has yet to report any concrete progress with regard to measures suggested by the Apex Regulator for improving the listing criteria and relevant regulatory framework.

B. Role of the Commission:

The review of international jurisdictions reveals that approval of prospectus by Securities Regulator is practiced in most of the neighboring developing jurisdictions. The Commission is under obligation to promote quality listing by ensuring that in addition to eligibility requirements as prescribed by PSX, the securities to be issued by any company are suitable for general public. Mere approval of the prospectus by PSX does not guarantee or obligate the Commission to grant its approval for the same.

The Commission believes in the due role of market forces with regard to the public offering. However, assessment of suitability aspect of any proposed listing is imperative for the Commission to discharge its assigned mandate in a responsible manner. The Commission has to maintain a balance while discharging its role as promoting new listings and protecting investors' confidence in the Capital Markets. The Commission is fully cognizant of the fact that any imbalance approach would not only undermine the fundamental role of market forces but would also be detrimental to the interest of issuers as well as general public.

C. Role of Joint Lead Managers

The Joint Lead Managers being licensed and experienced service providers are duty bound to ensure disclosure of all material facts in the prospectus in order to assist the investors in making an informed decision and maintain investors' confidence in the capital markets. The prospectus cleared by the PSX did not contain disclosure of various material facts. From this fact, it is evident that just like PSX, the Joint Lead Managers also failed to perform their duties and the burden of asking TPLP to make the disclosures in the prospectus fell solely on the shoulders of the Commission. During the hearing, the Joint Lead Managers were specifically asked whether

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they had incorporated all the material facts in the prospectus. They could not provide any satisfactory answer to the question.

E. Financial Viability of TPLP

After discussions with PSX, TPLP once again has revised its projections including utilization of proposed IPO proceeds. The revised projected utilization of IPO proceeds, cash flows and profitability of TPLP are as under:

Utilization of IPO proceeds

	Amount in Millions
Repayment of Summit Bank loan	200 (29%)
Creation of debt service reserve	250 (36%)
Payment of loans of other banks appearing in the books of CMS	100 (14%)
Working capital requirements	147 (21%)
Total:	**697 (100%)**

Cash Flows

Particulars	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25
Cash at Beginning	**178.26**	**60.75**	**136.55**	**108.82**	**103.57**	**77.69**	**61.01**	**53.33**	**433.21**	**1,008.56**
CF from Operations	(72.60)	144.57	188.64	262.91	315.76	400.08	433.73	482.26	510.76	565.26
CF from Investing	(487.09)	(0.40)	(0.40)	(0.40)	(0.40)	(7.93)	(0.40)	(0.40)	(0.40)	(0.40)
CF from Financing	442.19	(68.74)	(215.98)	(267.75)	(341.25)	(408.84)	(441.00)	(101.98)	(65.00)	-
Total Cash inflow/ (outflow)	**(117.51)**	**75.98**	**(27.73)**	**(5.24)**	**(25.89)**	**(16.68)**	**(7.68)**	**379.88**	**575.36**	**561.86**
Cash at end	**60.75**	**136.55**	**108.82**	**103.57**	**77.69**	**61.01**	**53.33**	**433.21**	**1,008.56**	**1,570.43**

Profitability

Particulars	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25
Profit after tax	**224.79**	**343.96**	**411.94**	**463.89**	**524.39**	**591.38**	**666.27**	**732.55**	**789.82**	**855.19**
Gain on fair valuation of property	(216.85)	(227.69)	(239.08)	(251.03)	(263.59)	(276.76)	(290.60)	(305.13)	(320.39)	(336.41)
Adjusted Profit after Tax	7.94	116.26	172.86	212.85	260.81	314.62	375.67	427.42	469.44	518.79

Prior to discussing the financial viability of TPLP based on the above projections, it would be relevant to disclose the past performance of TPLP.

As evident from the table given below, TPLP has not earned any profits from operations during the years 2014 and 2015 and till the half year ended December 31, 2015.

Particulars	FY14	FY15	HY16
Profit/ (Loss) after Tax	**516.44**	**183.88**	**(25.36)**
Less: Extraordinary items i.e. Exchange Gain	(131.17)	-	-
Less: Revaluation gain on investment property	(431.68)	317.51	
Adjusted (Loss) after tax	(46.41)	(133.63)	(25.36)

With regard to the projections submitted now by TPLP, the cash flows of TPLP have improved for the reasons given below:

(i) Zero cash dividend payments (Previously TPLP had projected payment of cash dividends of Rs 1.8 billion from 2018 to 2025)

(ii) No additional borrowings (Previously, TPLP had projected borrowing of Rs 1.1 billion for making dividend payments and repayment of loans)

(iii) Conversion of loan from TPL Holding (December 31, 2015 Rs 35 million) into equity

(iv) Reduction of mark-up on loan from TPL Trakker (December 31, 2015 Rs 175 million) from 14% to 10.4%. This is yet to be confirmed as TPL Trakker needs to obtain approval of its shareholders under the authority of special resolution in compliance with section 208 of the Companies Ordinance, 1984.

Analysis of the revised projections reveals the following:

(i) As of December 31, 2015, TPLP was highly leveraged i.e. 51% of its assets were financed through borrowings from financial institutions (Rs 2,271 million) and associated companies (Rs 210 million). The main asset of TPLP i.e. Center Point Building is mortgaged with HBL and therefore, there are remote chances of partial or entire sale of the project.

(ii) Keeping in view the highly leveraged position of TPLP, the revenues generated from operations would be entirely used for debt servicing. This is evident from the projected cash flows submitted by TPLP through PSX and debt service coverage ratio as given below:

Particulars	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25
EBIT (Revaluation reserve has been excluded)	238.54	324.57	383.49	421.14	462.22	505.99	556.19	587.01	642.16	709.19
Debt Servicing (Principal + Mark-up)	222.24	400.43	379.11	423.45	470.09	484.06	500.16	421.96	1.12	1.19
Debt Service Coverage Ratio	1.07	0.81	1.01	0.99	0.98	1.05	1.11	1.39	571.83	595.46

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(iii) TPLP has projected profits during each financial year. However, these profits mainly include gain on fair revaluation of property which is not distributable in terms of section 248 of the Companies Ordinance, 1984. It is pertinent to point out that out of ten tenants, 6 tenants are group/associated companies owing to common shareholders/Directors and 60% of rental income is from group/associated/related parties.

(iv) Dividend policy of TPLP depicts that TPLP does not intend to distribute any cash dividends to its shareholders. Analysis of the revised projections depict that owing to its significant debt servicing, TPLP would not have sufficient cash till year 2022 to pay any cash dividends to its shareholders.

(v) Any increase in value of property through revaluation is neither realizable nor distributable. Argument presented by PSX regarding long term appreciation in share price without cash dividend payments appears to be very subjective. It is pertinent to mention here that Dolmen REIT (100% equity financed project), was launched in June 2015 at a price of Rs. 11 per unit. The REIT has reported earning substantial profits of around Rs. 3,300 million for the nine months ended March 31, 2016. Further, the REIT, being a pass through vehicle, has to distribute 90% of its profits to its unit holders as cash dividends and has much better inbuilt safeguards to protect the interest of the investors. Despite these positive factors, the units of REITs are being traded below the price at which it was approved and subscribed.

(vi) TPLP IPO apparently defeats the basis concept of high risk and high return as the return of the project to the investors in form of cash dividends and price appreciation is negligible, whereas, investors would be exposed to the equity risk (market price risk, liquidity risk, etc.) as well as real estate risk (valuation risk, title risk, tenancy risk, foreclosure risk, etc.)

Keeping in view the above observations, the financial viability of the project is dependent on timely debt servicing. Any deviation could have an adverse impact on the financial viability of TPLP and would expose the investors to significant risks.

D. Track Record of Sponsors and Group Companies of TPLP

It is imperative to review the performance of the listed companies wherein the sponsors of TPLP have interest as sponsors, substantial shareholders, directors and chief executive.

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TPL Trakker Limited (Listed in 2012) Mr. Ali Jameel is the chief executive of TPL Trakker and his father is the chairman of the company. TPL Holdings Limited (A company 50% owned by Mr. Ali Jameel and his family) holds 52.91% shareholding in TPL Trakker.

Rs in millions

	FY12	FY13	FY14	FY15	9M16
Paid up capital	1,872.49	2,172.49	2,172.49	2,172.49	2,172.49
Equity	2,112.84	2,454.84	2,543.25	2,745.748	2,801.50
Profit After Tax	82.50	49.49	88.41	202.22	56.02
Breakup value per share	11.28	11.30	11.71	12.64	12.90
EPS	**0.44**	**0.23**	**0.41**	**0.93**	**0.26**
Dividends Paid – (%)	**Nil**	**Nil**	**Nil**	**Nil**	**Nil**
Market price per share	10.00 (July 16)	8.23	8.29	15.86	14.11 (May 23)

TRG (Listed in 2003). Mr. Ali Jameel is one of the sponsors of TRG and is director on the board of TRG since 2002.

Rs in millions

	FY11	FY12	FY13	FY14	FY15	9M16
Paid up capital	3,853.91	3,853.91	3,853.91	3,853.91	4,453,907	5,453.91
Equity	950.65	1,018.26	3,145.51	3,093.77	3,796,806	4,973.81
(Loss) after Tax	(70.74)	(24.89)	2,007.67	(51.75)	103,038	177.00
Breakup value per share	2.46	2.64	8.16	8.02	8.52	9.11
E(L)PS	**(0.18)**	**(0.06)**	**5.21**	**(0.06)**	**0.01**	**0.11**
Dividends Paid – (%)	**Nil**	**Nil**	**Nil**	**Nil**	**Nil**	**Nil**
Market price per share	2.56	3.42	10.19	14.03	30.55	38.09 May 23

TPL Direct Insurance Limited (Listed in 2011). Mr. Ali Jameel is the director of TPL Insurance and his father is the chairman of the company. TPL Trakker holds 24.39% shareholding in TPL Insurance.

Rs in million

	CY11	CY12	CY13	CY14	CY15	1Q16
Paid up capital	452.31	452.31	452.31	452.31	755.16	755.16
Equity	367.60	387.30	438.83	462.88	939.56	979.27
Profit After Tax	29.78	42.71	51.52	24.05	33.28	39.72
Breakup value per share	7.99	8.42	9.54	10.06	12.4	12.97
EPS	**0.84**	**0.93**	**1.12**	**0.52**	**0.5**	**0.53**
Dividends Paid – (%)	**5%**	**Nil**	**Nil**	**Nil**	**Nil**	**Nil**
Market price per share	10.08	9.98	9.95	25.75	23.8	16.5 May 23

Review of the above data reveals that the results achieved by all the companies especially profitability and the resultant earning per share are not appreciable. Further, with regard to dividend payouts, none of the companies, except for TPL Direct Insurance which gave a nominal dividend of 5% in CY 2011, have given any return to its shareholders in form of dividends during the last five years. In response, the chief executive informed during the hearing that they were able to sell the shares of the minority shareholders of TPL Direct Insurance to a foreign investor at a price of Rs 30/- per share. Further, there are numerous companies on the PSX which are not giving any dividends to its shareholders.

E. Suitability of TPLP for General Public

With regard to TPLP, the prime question that needs to be addressed is whether TPLP is suitable for offering to the general public or otherwise?

To cater this aspect, the Commission could have relied upon disclosure of all possible material information in the prospectus and let the general public make a well informed decision. It is pertinent to mention here that PSX has twice cleared the prospectus for listing. PSX is of the view that as long as all aspects are clearly disclosed and articulated in the prospectus along with key risk factors prominently highlighted, then it is up to investors to make a considered decision whether to participate in this primarily long term capital appreciation opportunity in Pakistan's real estate sector. With regard to zero cash dividend payments as per projections, PSX has stated that if investors participating in the TPLP IPO, are dearly informed regarding the nature of the investment opportunity, they should be left to decide on their own if dividends are important to them or not along with the associated risks. Furthermore, PSX stated that assuming there is insufficient positive cash flow for cash dividend payout, a company may choose to share realized profits through issue of stock dividends (bonus shares).

As discussed above, PSX failed to ensure disclosure of material facts and did not play its due role while clearing prospectus of TPLP.

In addition to relying upon the enhanced disclosures requirements, the Commission has to take into account the apparent risks involved vis-à-vis returns to be offered by TPLP project to the general public in order to ascertain its suitability for general Public. As a matter of fact, enhanced disclosures, cannot absolve the Commission of its responsibility of ensuring suitability of a project for general public.

Therefore, in order to maintain the confidence of the investors in the capital markets, the Commission has decided to review all future applications for public offering with regard to its suitability for general public.

38. In view of the above detailed discussion, the Commission has reached the following conclusions with regard to real estate companies:

(i) Considering the various inherent risks in real estate sector such as title risk, valuation risk, tenancy risk, foreclosure risk, litigation risk, etc., only Eligible Investors as defined in Book Building Regulations 2015 would be allowed to invest in real estate companies.

(ii) Retail investors and general public would be allowed to invest in the real estate sector through REITs only as REIT Regulations envisage a number of protections for investors which are not available to the general public in case of real estate companies. The salient features of REIT regulatory framework include fit and proper sponsors, directors and chief executive, independent valuation of the property, transfer of the property in the name of Trustee, restriction on borrowings, power of the unit holder of REITs to change the REIT management company etc.

39. Considering the inherent risks in the real estate sector and the facts of the instant case i.e. main asset of TPLP i.e. Center Point Building, representing 89% of the assets, is mortgaged with HBL (against outstanding debt of Rs. 2,071 million), zero cash dividend payments till year 2025 as per projections, track record of the sponsors' group companies with regard to dividend payouts and earning per share, etc., the Commission is of the considered view that the that the proposed issue of TPLP is not suitable for the retail investors and general public. Therefore, the Commission hereby grants approval under sub-section (2) of section 87 read with sub-section (1) of section 88 of the Act for issue, circulation and publication of TPLP's prospectus to the Eligible Investors only as defined in the Book Building Regulations, 2015 for issue of 55.750 million ordinary shares through book building process, subject to the following conditions:

(i) The minimum lot size of TPLP shares for trading on PSX shall be 100,000 shares. PSX and CDC shall ensure that the said condition is not circumvented. However, if needed in the public interest, the Commission may revise the lot size of 100,000 shares for the entire real estate sector, as and when deemed appropriate.

(ii) Mr. Ali Jameel and his family shall retain their entire shareholding of 24% in TPLP as disclosed in the prospectus for a minimum period of five (05) years from the date of subscription.

(iii) TPLP shall make the following additional disclosures in the prospectus:

a. The actual last two and half years performance with enhanced disclosures i.e. profits from core operations excluding revaluation gain on investment property

b. Details of the outstanding borrowings of Rs. 2,481 million of TPLP

c. The main asset of TPLP i.e. Center Point Building, representing 89% of the assets, is mortgaged with Habib Bank Limited against outstanding debt of Rs. 2,071 million as of 31st December, 2015

d. Due to highly leveraged position of TPLP, the revenues generated from operations would be primarily used for debt servicing. Further disclosure of debt service coverage ratio should also be made.

e. Financial viability of the project is dependent on timely debt servicing

f. Projected balance sheet, profit and loss and cash flows

g. Projected adjusted profits i.e. without revaluation gain on investment property as the said gain is not distributable in terms of section 248 of the Companies Ordinance, 1984

h. Out of ten tenants, 6 tenants are group/associated companies owing to common shareholders/Directors and 60% of rental income is from group/associated/related parties.

i. Zero cash dividend payments as per projections till year 2025.

j. Conversion of loan by TPL Holding (December 31, 2015 Rs. 35 million) into TPLP's equity

k. Reduction of mark-up on loan from TPL Trakker from 14% to 10.4%. (December 31, 2015 Rs. 175 million)

l. The return of the project to the investors in form of dividends and price appreciation may be negligible, whereas, investors would be exposed to the equity risk (market price risk, liquidity risk, etc.) as well as real estate risk (valuation risk, title risk, tenancy risk, foreclosure risk, etc.).

m. Approval of section 208 of the Companies Ordinance, 1984 shall be obtained by TPL Trakker before publication of prospectus.

(Fida Hussain Samoo)	**(Akif Saeed)**	**(Zafar Abdullah)**	**(Tahir Mahmood)**
Commissioner	Commissioner	Commissioner	Commissioner

(M. Zafar-ul-Haq Hijazi)
Chairman

Dated May 27, 2016

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