

GOVERNMENT OF PAKISTAN
SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

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Islamabad, the 20th May 2020

NOTIFICATION

S.R.O. 458 (I)/2020.— The following draft amendments to Public Offering Regulations, 2017 proposed to be made by the Securities and Exchange Commission of Pakistan in exercise of the powers conferred under section 169 of the Securities Act, 2015 (III of 2015), are hereby published for information of all the persons likely to be affected thereby and notice is hereby given that objections or suggestions, if any, received within fourteen days from the date of its placement on the website of the Commission, shall be taken into consideration by the Securities and Exchange Commission of Pakistan, namely:-

In the aforesaid Regulations, -

(1) In regulation 2, -

(i) in sub-regulation (1), -

(a) for clause (v), following shall be substituted, namely: -

“(v) “Bid” in case of shares means an intention to buy a specified number of shares at a specified price;”

(b) after clause (v), following new clause shall be added, namely: -

“(va) “Bid” in case of debt securities means an intention to buy a specified number of debt securities for a particular profit rate/spread;”

(c) in clause (vi), after the text “Bid Amount or Bid Money”, the text “in case of shares” shall be added.

(d) after clause (vi), following new clause shall be added, namely: -

“(via) “Bid Amount or Bid Money” in case of debt securities means the amount equal to the product of the number of debt securities bid for and the face value of debt security;”

(e) in clause (viii), for the word “shares” the word “securities” shall be substituted.

- (f) in clause (ix), for the word “shares” the word “securities” shall be substituted.
- (g) for clause (xi), following shall be substituted, namely: -
- “(xi) “Book Building” in case of shares means a process undertaken to elicit demand for shares under which bids are collected from the Bidders and a book is built which depicts demand for the shares at different price levels;”
- (h) after clause (xi), following new clause shall be added, namely:-
- “(xia) “Book Building” in case of debt securities means a process undertaken to elicit demand for debt securities under which bids are collected from the Bidders and a book is built which depicts demand for the debt securities at different profit rate/spread levels;”
- (i) after clause (xviii), following new clause shall be added, namely:-
- “(xviiiia) “Cut off profit rate/spread” mean the profit rate/spread of a debt security determined on the basis of book building process.”
- (j) after clause (xxiiiia), following new clause shall be added, namely:-
- “(xxiiiib) “Government Guaranteed Sukuk” means Sukuk issued by any corporation or body corporate owned and controlled by the Federal Government and such Sukuk is guaranteed by the Federal Government;”
- (k) clause (xxxi) shall be omitted.
- (l) for clause (xxxii), following shall be substituted, namely:-
- “(xxxii) “Limit Bid” in case of shares mean a bid placed by the bidder at a maximum price that he is willing to pay for shares under the Book Building method;”
- (m) after clause (xxxii), following new clause shall be added, namely: -
- “(xxxiiia) Limit bid in case of debt security means a bid placed by the bidder for a particular profit rate/spread under the book building method.”

- (n) in clause (xxxiii), for the word “two” the word “one” shall be substituted.
 - (o) after clause (xlii), following new clause shall be added, namely:-
 - “(xliia) “Reverse Dutch Auction Method” means the method through which the cutoff profit rate/spread is determined by arranging all the profit rate/spread in an ascending order along with the number of debt securities and the cumulative number of debt securities bid for at each profit rate/spread. The cut off profit rate/spread is determined by increasing the profit rate/spread to the extent that the total number of debt securities offered under the Book Building portion are subscribed.”
 - (p) for clause (xlix), following shall be substituted, namely: -
 - “(xlix) “Shelf Registration” means an arrangement that allows the Issuer to make offering in multiple tranches through a single offering document i.e. Prospectus;”
 - (q) in clause (li), after the text “Step Bid”, the text “in case of shares” shall be added and for the word “two” the word “one” shall be substituted.
 - (r) after clause (li), following new clause shall be added, namely:-
 - “(lia) “Step Bid” in case of debt securities means a series of Limit Bids at different profit rates/spreads provided that Bid Amount of any step is not less than one million rupees under the Book Building method;”
 - (s) for clause (lvi), following shall be substituted, namely:-
 - (lvi) “Tranche” means offer of a certain portion out of the total issue size as disclosed in the shelf prospectus.”
- (2) In regulation 3,-
- (i) in sub regulation (1), -
 - (a) following new clause (i), shall be added before clause (ii) namely: -
 - “(i) the Issuer has obtained approval from its Board of Directors relating to Public Offering.”

- (b) in clause (iii), for the second proviso, following shall be substituted, namely:-

“Provided further that the above clauses (ii) and to (iii) shall not apply in case of: (i) Green Field Project; (ii) public offering of debt security whose debt servicing is guaranteed from the Government. (iii) public offering of debt security by multilateral agencies. (iv) public offering of debt security by state owned enterprises having entity rating of BBB+ and above.”

- (ii) in sub regulation (2), -

- (a) after clause (i), following two proviso shall be added namely:-

“Provided that the clause (i) above shall not apply to the nominee director of the government and financial institution/ creditor.

Provided further that the clause (i) shall not apply to independent director.”

- (iii) in sub regulation (3), -

- (a) after the text “The Issuer shall” the expression “/may” shall be added and at the end, the text “The Book Runner, Underwriter and Balloter and Share Registrar shall be independent of the Issuer in case of issuance of equity securities.” shall be omitted. Thereafter following three proviso shall be added namely: -

“Provided that in case the Consultant to the Issue is not appointed by the Issuer than a specific disclosure in this context shall be made on the Cover page of the Prospectus.

Provided further, that in case of public offering of equity securities, scheduled bank, audit firm engaged in professional management services and development financial institution can act as Consultant to the Issue in joint capacity with a securities broker.

Provided further that in case of public offering of equity securities, an audit firm engaged in professional management services cannot act as Consultant to the Issue, if it is also an existing auditor of the issuer.”

- (b) the “Explanation” shall be omitted.

- (iv) in sub regulation (8), after the text “The Issuer”, the text “itself or” shall be added and after the text “Consultant to the Issue,” the words “if any” shall be added.
- (v) in sub regulation (9), -
- (a) for clause (i), following shall be substituted, namely: -
- “(i) Prepare the draft prospectus as per the format and disclosures prescribed in First Schedule and should be translated into Urdu in addition to English version.”
- (b) in clause (ii), for the text “in the form as” the text “as per the disclosures” shall be substituted.
- (c) in clause (iii), for the text “in the form as” the text “as per the disclosures” shall be substituted.
- (d) in clause (iv), for the text “in the form as” the text “as per the disclosures” shall be substituted.
- (vi) after sub regulation (9), following new sub regulations shall be added namely: -
- “(9a) The Issuer and Consultant to the Issue, if any shall ensure that all applicable disclosures as prescribed under First Schedule are made in the draft prospectus.
- (9b) In case, some disclosures are not applicable to a particular issue, the Issuer and Consultant to the Issue, if any shall report the same to the Commission along with rationale.”
- (vii) in sub regulation (11), after the text “Consultant to the Issue”, at the end, the text “, if any” shall be added.
- (viii) after sub regulation (12), following new proviso shall be added namely: -
- “Provided that in case where Consultant to the Issue is not appointed, the Issuer, itself shall address the comments received on the draft prospectus.”
- (ix) in sub regulation (13), for the words “through the” the text “itself or through its” shall be substituted and after the text “Consultant to the Issue” the text “, if any” shall be added.

- (x) for sub regulation (14), following shall be substituted namely: -
- “(14) The securities exchange shall communicate its approval or reasons for rejection of the application to the Consultant to the Issue, if any, the Issuer and the Commission.”
- (xi) for sub regulation (15), following shall be substituted namely: -
- “(15) After obtaining the approval of the securities exchange, the Issuer itself or through its Consultant to the Issue, if any, shall submit an application along with the documents prescribed in Eight Schedule to the Commission for its approval under section 87 and 88 of the Act. The application shall be accompanied by the processing fee as prescribed in Fifth Schedule.”
- (xii) for sub regulation (16), following shall be substituted namely: -
- “(16) In case application for listing is refused by the securities exchange, the Issuer itself or through its Consultant to the Issue, if any, may file a petition before the Commission within thirty days of such refusal.”
- (xiii) for sub regulation (20), following shall be substituted namely: -
- “(20) the Issuer, the Consultant to the Issue, the Underwriter, the Book Runner and the Designated institution shall maintain record of the issue for a period of at least ten years from the closing of the public subscription.”
- (3) In regulation 5,-
- (i) after sub regulation (2), following new proviso shall be added, namely. -
- “Provided that sub regulation (1) and (2) shall not apply in case of: (i) secondary public offering; and (ii) initial public offering of other class of shares by listed companies.”
- (4) In regulation 6,-
- (i) for sub regulation (1), following shall be substituted, namely. -
- “(1) The Issuer shall decide the offer price in consultation with the Consultant to the Issue, if any. The Consultant to the Issue, if any or the Issuer shall provide explanations in support of the offer price under a separate section titled as “Valuation Section” of the prospectus.”

- (ii) for sub regulation (4), following shall be substituted, namely. -
 - “(4) After approval of the prospectus by the Commission, the Issuer itself or through its Consultant to the Issue, if any shall seek from the securities exchange the dates for the publication of prospectus and the subscription period.”
- (iii) for sub regulation (6), following shall be substituted, namely. -
 - “(6) After inserting the dates of the subscription period, the copy of the approved Prospectus shall be placed on the website of the Issuer, the securities exchange and the Consultant to the Issue, if any.”
- (iv) for sub regulation (11), following shall be substituted, namely. -
 - “(11) The company whose shares are offered through fixed price method shall not be provisionally listed.”
- (5) In regulation 7,-
 - (i) in sub regulation (6), after the text “portion shall be” the word “credit” shall be added.
 - (ii) in sub regulation (7), after the text “Consultant to the Issue” appearing for the first time, the text “, if any” shall be added.
 - (iii) after sub regulation (10), following new proviso shall be added namely:
 -
 - “Provided that in case where there is no consultant to the Issue, the Issuer itself shall ensure that tripartite agreements contain the required content as prescribed above.”
- (6) In regulation 8,-
 - (i) for sub regulation (1), following shall be substituted namely: -
 - “(1) The Issuer shall decide the Floor Price and the Price Band in consultation with the Consultant to the Issue, if any.
Provided that the upper limit of the Price Band should not be more than 40% of the Floor Price.

The Floor Price and its determination shall be disclosed under a separate section titled as “Valuation Section” in the prospectus. The Consultant to the Issue, if any or the Issuer shall Justify the Floor price.”

- (ii) in sub regulation (2), after the text “by the Commission, the” the text “Issuer itself or through its” shall be added and after the text “Consultant to the Issue” the text “, if any” shall be added.
- (iii) for sub regulation (6), following shall be substituted namely: -
 - “(6) After inserting the dates of the Bidding period, the copy of the approved Prospectus shall be placed on the website of the Issuer, the Book Runner, the Designated Institution, the securities exchange and the Consultant to the Issue, if any.”
- (iv) in sub regulation (14), the words “upward only” shall be omitted.
- (v) for sub regulation (15), following shall be substituted namely: -
 - “(15) The bidding shall remain open for at least one working day.”
- (7) In regulation 9,-
 - (i) in sub regulation (1), for the words “at a” the word “as” shall be substituted and for the word “Price” the word “Bid” shall be substituted. In the proviso, for the word “two” the word “one” shall be substituted.
- (8) In regulation 11,-
 - (i) for clause (1), following shall be substituted namely: -
 - “(1) Within three working days of the closing of the Bidding Period, the Issuer itself or through its Consultant to the Issue, if any shall publish supplement to the prospectus in those newspapers in which the prospectus was earlier published and also disseminate the same to the securities exchange, banker to an issue and underwriter. For this clause the term supplement to the prospectus means information relating to results of the Book Building or any other information prescribed below that is important for the retail investors.”
 - (ii) after clause (1), following new sub regulation shall be added namely: -
 - “(1a) The supplement to the prospectus shall contain the information relating to the Strike Price, the Offer Price, names of the underwriters of the retail portion of the Issue if any, underwriting commission bifurcating as take up commission or any other, commitment by the successful bidders for subscribing the undersubscribed retail portion in case of

hundred percent book building, category wise breakup of the successful bidders along with number of shares allocated to them, dates of public subscription and such other information as specified by the Commission.”

(9) In regulation 12,-

(i) for sub regulation (1), following shall be substituted namely: -

“(1) A person or group of persons, holding more than ten per cent shares of a listed company or listed body corporate, may offer such shares for sale to the public subject to the conditions that the offer size (product of the offer price or floor price and number of shares being offered) of capital to the public shall not be less than one hundred million rupees.”

(10) In regulation 13,-

(i) in clause (7),

(a) in sub clause (v), in the proviso, the text “a Sovereign Sukuk and a” shall be omitted.

(b) after sub clause (xv), Explanation 1 and Explanation 2 shall be omitted.

(ii) after clause (7), following new clause shall be added namely: -

“(8) Within 10 working days of the close of public subscription period or such shorter period of time as may be specified by the Commission from time to time, the debt securities shall be allotted and issued against the accepted and successful applications and the subscription money of the unsuccessful applicants shall be unblocked/ refunded.”

(11) After regulation 15, following new regulations shall be added namely: -

“15a. Book Building Mechanism for debt securities: An issuer can adopt book building mechanism for discovery of profit rate in case of fixed rate instrument and spread (+/-) in relation to the Kibor in case of floating rate instrument.

Bid for the purpose of this regulation means intention to buy specified number of debt securities for a particular spread/profit rate quoted in basis points.

The Book Building shall be conducted as per the conditions and procedure prescribed below:

- i. The total issue size of the debt security shall be offered to the General Public including both book building portion and retail portion.
- ii. Maximum Seventy Five percent of the issue size shall be allocated to the Book Building portion and the remaining twenty five percent to the retail investors. The retail portion of the public offer shall be fully underwritten.
- iii. The Issuer shall enter into a tripartite agreement in writing with the Designated Institution and the Book Runner. The said agreement shall specify inter-alia, the rights, privileges, duties, responsibilities and obligations of each party to the agreement and shall provide a clause on dispute resolution mechanism among the parties to the agreement:
- iv. The Issuer shall publish the prospectus at least one day before the commencement of registration of bidders by the book runner;
- v. For Floating rate instruments, Bidder can enter spread on both positive and negative sides in relation to the KIBOR.
- vi. The Book Building shall be considered as cancelled if the Issuer does not receive bids for total number of debt securities offered under the book building.
- vii. Clause (9) to (15) of Regulation 8 and clause (1), (4) and (5) of Regulation 9 relating to procedure for Book Building and bidding of shares shall also apply in case of debt securities.
- viii. The Book Runner shall collect full amount of the bid money as margin money in respect of bids placed by the individual investors.
- ix. In case of Institutional Investors, the Book Runner shall accept application with minimum 10% margin money.
Provided that Book runner may waive the margin requirement for institutional investors at its own discretion
- x. Book Building Portion shall be credit underwritten by one or more book runners:
- xi. At the close of the bidding period, cut-off profit rate/ spread shall be determined on the basis of reverse Dutch Auction Method by arranging all the profit rate/spread in an ascending order along with the number of debt securities and the cumulative number of debt securities bid for at each profit rate/spread. The cut off profit rate/spread is determined by increasing the profit rate/ spread to the extent that the total number of debt securities offered under the Book Building portion are subscribed. The allotment shall be made on following basis:
 - a. The allotment shall be made on the basis of highest bid priority, i.e. the bid made at the lowest profit rate/ spread shall be considered first for allotment;
 - b. The bidders who have made bids at profit rate/spread less than the Cut-off profit rate/ spread shall be allotted the debt securities at the Cut-off profit rate/Spread;

- c. In case all the bids made at profit rate/spread below the cut off profit rate/spread are accommodated and debt securities are still available for allotment. Such available debt securities shall be allotted against the bids made at the Cutoff profit rate/spread on proportionate basis.
- d. The bidders who have made bids at profit rate/spread higher than the Cut-off profit rate/spread shall not qualify for allotment.
- xii. Within one day of the close of the bidding period, successful bidders shall be intimated the Cut-off profit rate/spread and the number of debt securities allotted to each of them;
- xiii. Successful bidders shall deposit remaining amount of bid money within three working days of intimation of successful bid. In case any bidder fails to do so, margin money shall be forfeited without any recourse.
- xiv. The successful bidders shall be issued securities only after the end of the public subscription, in the form of book-entry to be credited in their respective accounts.

15b. Restrictions:

(1) The bidding period shall not be extended except in extra ordinary circumstances like closure of banks, failure of System, etc. In such case, Book Runner shall apply to the Commission for extension in the Bidding Period after obtaining NOC from securities exchange. In case extension is granted, the same shall be disseminated through publication in all those newspapers where the prospectus was published and the website of the issuer, consultant to the issue, if any, book runner, the designated institution and the securities exchange.

- (2) The bidder shall not:
- (i) make consolidated bid;
 - (ii) make upward revision in terms of profit rate/spread;
 - (iii) make downward revision in terms of bid amount; and
 - (iv) withdraw the Bid:

(3) No person shall take part in the book building process, directly or indirectly severally or jointly in any manner or engage in any act or practice which create a false and misleading appearance of active bidding for raising or depressing cutoff profit rate/spread in the book building process.

15c. Procedure for allocation of debt securities to the retail investors:

- i. Within three working days of the closing of the Bidding Period, the Issuer itself or through its Consultant to the Issue, if any shall publish supplement to the prospectus in those newspapers in which the prospectus was earlier published and also disseminate the same to the securities exchange, banker to an issue and underwriter. For this clause

the term supplement to the prospectus means information relating to results of the Book Building or any other information prescribed below that is important for the retail investors.

- ii. The supplement to the prospectus shall contain the information relating to the cut off profit rate/spread, names of the underwriters of the retail portion of the Issue , underwriting commission bifurcating as take up commission or any other, category wise breakup of the successful bidders along with number of debt securities allocated to them, dates of public subscription and such other information as specified by the Commission.
- iii. The general public shall submit application for the subscription of debt securities to the Banker to an Issue either in physical form or electronically. The application shall be duly accompanied by a crossed cheque or demand draft or pay order in the name of the Issuer or evidence of direct debit of subscription money from the applicant's bank account or blocking of the subscription money in the applicant's bank account.
- iv. Within 10 working days of the close of public subscription period or such shorter period of time as may be specified by the Commission from time to time, the debt securities shall be allotted and issued against the accepted and successful applications and the subscription money of the unsuccessful applicants shall be unblocked/ refunded."

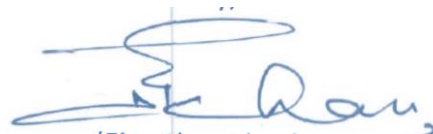
(12) In FIRST SCHEDULE, -

- (i) in the heading, after the text "FORMAT OF THE PROSPECTUS" the text ", DISCLOSURE REQUIREMENTS" shall be added.
- (ii) under the heading "11. Part IVA: Valuation Section", for clause (i), following shall be substituted namely: -
 - "(i) Justifications given by the Consultant to the Issue, if any or the issuer in support of the Offer/ Floor Price set by the Issuer."

(13) In EIGHTH SCHEDULE, after clause (1), following new clause shall be added namely: -

"1a Copy of the board resolution relating to approval of the Public Offering."

[No. SMD/CIW/Misc./09/2015]



(Ejaz Alam Khan)

Secretary to the Commission