

THE GAZETTE OF PAKISTAN

EXTRAORDINARY

PUBLISHED BY AUTHORITY

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Islamabad, June 06, 2018

NOTIFICATION

S. R. O. (I)/2018. – In exercise of powers conferred by section 512 read with sub-clause (ii) of clause (b) of sub-section (2) of Section 218 of the Companies Act, 2017 (Act No. XIX of 2017), the Securities and Exchange Commission of Pakistan, is pleased to make the following regulations, the same having been previously published vide Notifications No. S.R.O 34(I)/2018 dated the 17th January, 2018 and S.R.O 435(I)/2018 dated the 9th April, 2018, as required by sub-section (1) of the said Section 512 namely:-

1. Short title, commencement and application. – (1) These regulations shall be called the Employees Contributory Funds (Investment in Listed Securities) Regulations, 2018.

(2) They shall come into force at once.

(3) These regulations shall apply to all provident funds or any other contributory retirement funds constituted by a company or where a trust has been created by a company to manage such funds in respect of all the investments made by company or trust, as the case may be, in bonds, redeemable capital, debt securities or instruments issued by a statutory body, units of collective investment schemes registered as notified entities with the Commission and in listed securities including shares of companies, bonds, redeemable capital, debt securities and equity securities.

(4) These regulations shall not apply to a pension fund governed under Voluntary Pension Systems Rules, 2005.

(5) Within [three years]¹ from the date of commencement of notification of these regulations, all investments from the provident fund or any other contributory retirement fund constituted by a company or where a trust created by a company with respect to provident fund or any other contributory retirement fund, as the case may be, which are beyond the investment limits provided in these regulations shall be reduced gradually and brought in conformity with the provisions of these regulations.

(6) The fund or trust shall amend the trust deed and include a clause providing one time option to the new employees for either allowing or not allowing the fund or the trust to make any investment out of their contributory fund or trust under these regulations.

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

- (a) “Act” means the Companies Act, 2017 (Act No. XIX of 2017);
- (b) “Annexure” means annexure appended to these regulations;
- (c) “contribution” means all the money contributed to fund or trust, as the case may be, either by the employees or the company or both;
- (d) “Fund” means a provident fund or any other contributory retirement fund constituted by a company for its employees or any class of its employees;
- (e) “Initial public offer” means the IPO of a company;
- (f) “size of Fund or Trust” means total assets of the contributory fund or Trust, as the case may be, including realized profit on such investments at cutoff date; and
- (g) “Trust” means a trust created under the Trust Act, 1882 (ACT NO.II OF 1882), by the company with respect to provident fund, or any other contributory retirement fund.

(2) In these regulations, all words and expressions used but not defined shall have the same meanings as are assigned to them in the Companies Act, 2017(Act No. XIX of 2017), the Non-Banking Finance Companies (Establishment Regulations), 2003 and the Non-Banking Finance Companies and Notified Entities Regulations, 2008.

3. Limit for investment in listed securities.- (1) Where the company or Trust decide to make

¹ Substituted for words “one year” vide SRO 856(I)/2019 dated July 25, 2019

an investment out of the Fund or Trust, as the case may be, in-

- (i) bonds, redeemable capital, debt securities or instruments issued by a statutory body or;
- (ii) securities listed on Pakistan Stock Exchange, including shares of companies, bonds, redeemable capital, debt securities, equity securities and collective investment schemes [other than money market collective investment scheme]² registered as notified entity with the Commission under Non-Banking Finance Companies and Notified Entities Regulations, 2008,

such investments shall not exceed fifty per cent of the size of Fund or Trust, as the case may be, subject to following sub limits namely:-

- (a) total investment, at the time of making investment in debt collective investment schemes [omitted]³ registered as notified entity with the Commission under Non-Banking Finance Companies and Notified Entities Regulations, 2008, shall not exceed fifty per cent of the size of the Fund or Trust, as the case may be;
- (b) total investment at the time of making investment in bonds, redeemable capital, debt securities or instruments issued by a statutory body or listed debt securities, shall not exceed thirty per cent of the size of the Fund or Trust, as the case may be;
- (c) total investment, at the time of making investment in listed equity securities and equity collective investment schemes, registered as notified entity with the Commission under Non-Banking Finance Companies and Notified Entities Regulations, 2008, shall not exceed thirty per cent of the size of the Fund or Trust, as the case may be.

(2) Total investment, at the time of making investment in bonds, redeemable capital, debt securities or instruments issued by a statutory body or listed debt securities, of a particular sector, as per the sector classification made by the Pakistan Stock Exchange, shall not exceed twenty per cent of the investment limit provided in clause (b) of sub-regulation (1).

- (3) Total investment, at the time of making investment in bonds, redeemable capital, debts

² Inserted vide SRO 491(I)/2019 dated April 25, 2019

³ Deleted the words [and money market collective investment schemes] vide SRO 491(I)/2019 dated April 25, 2019

securities or instruments issued by a particular statutory body or in listed debt securities of a particular company shall not exceed ten per cent of the investment limit provided in clause (b) of sub-regulation (1) or five per cent of that issue, whichever is lower;

(4) Total investment, at the time of making investment in bonds, redeemable capital, debt securities or instruments issued by a constituting statutory body or listed debt securities of constituting company or its associated companies, as the case may be, shall not exceed ten per cent of the investment limit provided in clause (b) of sub-regulation (1).

(5) Total investment, at the time of making investment in listed equity securities of a particular sector, as per the sector classification made by the Pakistan Stock Exchange, shall not exceed twenty per cent of the investment limit provided in clause (c) of sub-regulation (1).

(6) Total investment, at the time of making investment in listed equity securities of a particular company shall not exceed ten per cent of the investment limit provided in clause (c) of sub-regulation (1) or five per cent of the outstanding shares in the paid up capital of the investee company whichever is lower.

(7) Total investment, at the time of making investment in listed equity securities of constituting company or its associated companies out of Fund or Trust, as the case may be, shall not exceed ten per cent of the investment limit provided in clause (c) of sub-regulation (1).

(8) [Total investment, at the time of making investment in debt collective investment schemes managed by a single asset management company, shall not exceed fifty percent of the investment limit provided in clause (a) of sub-regulation (1)]⁴

(9) Total investment, at the time of making investment in any single equity collective investment scheme shall not exceed [thirty]⁵ percent of the investment limit provided in clause (c) of sub-regulation (1).

(10) Total investment, at the time of making investment in Initial Public Offers (IPO) of equity securities shall not exceed five per cent of the investment limit provided in clause (c) of sub-regulation (1), every six months in a calendar year:

⁴ Substituted for the words [Total investment, at the time of making investment in debt collective investment schemes and money market collective investment schemes managed by a single asset management company shall not exceed twenty per cent of the investment limit provided in clause (a) of sub-regulation (1)] vide SRO 491(I)/2019 dated April 25, 2019

⁵ Substituted for the word 'ten' vide SRO 491(I)/2019 dated April 25, 2019

Provided that, total investment, at the time of making investment in one IPO of equity securities shall be restricted to one per cent of the outstanding shares in the paid-up capital of the investee company or two per cent of the investment limit provided in clause (c) of sub-regulation (1) whichever is lower.

[(11) where the company or Trust, as the case may be, decide to make an investment out of the Fund or Trust in the money market collective investment scheme registered as notified entity with the Commission under the Non-Banking Finance Companies and Notified Entities Regulations, 2008, such investment can be made up to hundred percent of the size of the Fund or Trust, as the case may be, subject to the following sub-limits namely,-

- (a) total investment at the time of making investment in any single money market collective investment scheme shall not exceed twenty percent of the size of the Fund or Trust as the case may be; and
- (b) total investment, at the time of making investment in money market schemes managed by a single asset management company, shall not exceed fifty percent of the size of the Fund or Trust as the case may be]⁶.

4. Conditions for investment in listed securities.- Where the Fund or Trust decide to make investment in-

- (i) equity securities of companies listed on Pakistan Stock Exchange; or
- (ii) bonds, redeemable capital, debt securities or similar instruments listed on Pakistan Stock Exchange; or
- (iii) collective investment schemes registered as notified entity with the Commission under Non-Banking Finance Companies and Notified Entities Regulations, 2008; or
- (iv) bonds, redeemable capital, debt securities or instruments issued by a statutory body;

such investment shall be subject to the following conditions, namely:-

- (a) where an investment is made in equity securities of listed companies, it shall be made only where such company,—

⁶ Inserted vide SRO 491(I)/2019 dated April 25, 2019

- (I) has a minimum profitable operational record of immediate three preceding years;
- (II) has paid average dividend of not less than fifteen percent to the shareholders during two out of three preceding consecutive years;
- (III) the minimum free float of the Company shall not be less than fifteen percent or fifty million shares whichever is higher; and
- (IV) has breakup value equivalent or more than the par value of the shares of such company.

- (b) where investment is made in bonds, redeemable capital, debt securities or instruments issued by a statutory body or listed debt securities of a company such securities shall be assigned a minimum rating of “A” by a credit rating company licensed with the Commission and with at least a stable outlook at the time of investment:

Provided that the Commission may, from time to time, change the minimum rating of a security assigned in this clause;

- (c) where investment is made in debt collective investment schemes, it shall be made only in those debt collective investment schemes which have been assigned stability rating of A by a credit rating company licensed with the Commission at the time of investment;
- (d) where investment is made in money market collective investment schemes, it shall be made only in those money market schemes which have been assigned a minimum stability rating of “AA-” by a credit rating company licensed with the Commission at the time of investment:

Provided that the Commission may, from time to time, change the minimum rating of a security assigned in this clause:

- (e) investment in IPO shall be made subject to the following conditions, namely:-
 - (I) investment in IPO of equity securities shall be made in companies having profitable operational record;
 - (II) Fund or Trust, shall not subscribe to an IPO of equity securities

underwritten in any way by its associated companies or associated undertakings; and

(III) Fund or Trust, shall not subscribe to an IPO of a greenfield project;

- (f) investment in collective investment schemes that are hybrid in nature shall follow the maximum investment limits provided in clause (c) of sub-regulation (1) of regulation 3 and hybrid funds which are allowed to invest in debt securities shall comply with the condition for investments provided in clause (b);
- (g) where the aggregate investment in listed equity securities, other than equity collective investment schemes is fifty million rupees or above, the Fund or Trust shall appoint or seek advice from investment advisor holding a valid license from the Commission for providing investment advisory services:

Provided that where investment is made on the advice of the investment advisor the conditions for investment criteria provided in sub-clauses (I), (II) and (III) of clause (a), shall not be applicable:

Provided further that, investment advisor will be held liable under applicable law in case of loss to Fund or Trust due to his negligence;

- (h) investment shall not be made in a listed debt securities if issuer of the securities has defaulted in any of its financial obligations;
- (i) the Fund or Trust, as the case may be, shall be managed by the qualified individuals having requisite skills, knowledge and experience in the capital market in order to ensure that, the investment and the interest of the employees' is protected;
- (j) the Fund or Trust, as the case may be, shall develop and maintain appropriate investment policies explaining investment limit, investment avenues and risk appetite including but not limited to business allocation among the securities brokers and the Fund or Trust, as the case may be, shall invest in liquid securities and shall refrain from activities including day trading, investment in future markets (except spread transactions) and investment in securities either through borrowing or through leverage.

5. Mandatory submission regarding investments out of Fund or Trust.- Every company, constituting a Fund or Trust, as the case may be, shall, within one month of the close of every six months of the financial year of such Fund or Trust, as the case may be, submit to the Commission financial

information of the Fund or Trust as the case may be, as contained in the Annexure “A” to these regulations duly endorsed by the chief executive officer of the company, in case of Fund and by the head of trustees in case of Trust.

6. Repeal and saving.- (1). The Employees’ Provident Fund (Investment in Listed Securities) Rules, 2016, S.R.O. 261(I)/2002 dated the 10th May, 2002 and S.R.O. 537(I)/2004, hereinafter referred to as repealed instruments, are hereby repealed.

(2) Save as otherwise specifically provided in these regulations, nothing in these regulations shall affect or be deemed to affect anything done, action taken, investigation or proceedings commenced, order made unless withdrawn, conveyance, mortgage deed, document or agreement made, fee directed or paid or accrued, resolution passed, direction given, proceedings taken or instrument executed or issued, under or pursuant to the repealed instruments, and any such things, 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 regulations and not inconsistent with any of the provisions of these regulations, 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 regulations.

ANNEXURE-A

[see rule 5]

Mandatory disclosures regarding Investment out of Fund or Trust:

Particulars	Audited/Un-audited	Audited
	2018	2017
	Rs.	Rs.
Size of fund or trust-Total Assets	xxx	xxx
Cost of investment out of fund or trust	xxx	xxx
Fair value of investment out of fund or trust	xxx	xxx
Percentage of investment out of fund or trust	xx	xx

Break-up of Cost of Investment out of Fund or Trust:

Particulars	Year 2018		Year 2017	
	Rs.	% of Investment	Rs.	% of Investment
Investment in Money Market Collective Investment Schemes	xxx	xx	xxx	xx
Investment in Equity Collective Investment Schemes	xxx	xx	xxx	xx
Investment in Debt Collective Investment Schemes	xxx	xx	xxx	xx
Investment in Other Collective Investment Schemes	xxx	xx	xxx	xx
Investment in Listed Debt Securities	xxx	xx	xxx	xx
Investment in Listed Equity Securities	xxx	xx	xxx	xx
Investment in Debt Instruments of Statutory Bodies	xxx	xx	xxx	xx
Investment in Government Securities	xxx	xx	xxx	xx
Bank Balances	xxx	xx	xxx	xx
Others	xxx	xx	xxx	xx

[No.EMD/D-II/26/2010]

(Bilal Rasul)
Secretary to the Commission