

GOVERNMENT OF PAKISTAN
Securities and Exchange Commission of Pakistan

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Islamabad, the 5th March, 2020

NOTIFICATION

S.R.O. 173 (I)/2020.- The following draft amendments to the Real Estate Investment Trust Regulations, 2015, proposed to be made by the Securities and Exchange Commission of Pakistan, in exercise of the powers conferred by sub-section (2) of section 282B of the Companies Ordinance, 1984 (XLVII of 1984), are hereby published for information of all persons likely to be affected thereby and notice is hereby given that comments, if any, received within fourteen days of the date of this notification will be taken into consideration, namely:-

DRAFT AMENDMENTS

In the aforesaid Regulations,--

(1) in regulation (2), in sub-regulation (1), -

(a) after clause (iii), following new clause shall be inserted, namely:-

“(iii a) “Developmental Infrastructure REIT Scheme” means a REIT Scheme established for investment in Infrastructure real estate with the object of development and construction of Infrastructure real estate;”

(b) after clause (viii) the following new clause shall be inserted, namely:-

“(viii a) “Hybrid Infrastructure REIT Scheme” means a REIT Scheme, which has a Developmental component as well as a Rental component in relation to Infrastructure real estate;”

(c) after clause (ixa), the following new clauses shall be inserted, namely:-

“(ixb) “Infrastructure real estate” means real estate that has inherently permanent structures such as bridges, tunnels, roadbeds, railroad tracks, transmission lines, pipelines, storage structures, ports, airports or any other asset that serves as a passive function such as to hold, support or route rather than serve as an active function to manufacture, create or produce;”

“(ixc) “Infrastructure REIT Scheme” means a REIT Scheme established for the purpose of mainly investing in Infrastructure real estate;”

(d) after clause (xvi), the following new clause shall be inserted:-

“(xvii) “Ordinance” means the PART VIII-A of the Companies Ordinance, 1984 (XLVII of 1984);”

(e) after clause (xxviii), the following new clause shall be inserted, namely:-

“(xxviii a) “Rental Infrastructure REIT Scheme” means a REIT Scheme established with the object of making investment in an Infrastructure real estate with the purpose of generating rental income from it;”

(2) for regulation 3A, the following shall be substituted, namely:-

“3A. Eligibility criteria for trustee. – A Trustee which is registered with the Commission as a Trustee for Collective Investment Schemes under the Non-Banking Finance Companies and Notified Entities Regulations, 2008 shall be eligible to be considered for appointment as Trustee of a REIT scheme;”

(3) in regulation 3C, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be inserted, namely:-

“Provided that no amendments including any modification, alteration and additions or omission shall be made in the Trust Deed without consent of the trustee, prior approval of the Commission and prior notice of at least seven days to the unit holders.”

(4) in Regulation 5B, in sub-regulation (1), for the full stop at the end a colon shall be substituted and thereafter the following proviso,-

“Provided that no amendments including any modification, alteration and additions or deletions shall be made in the Offering Document without consent of the trustee, prior approval of the Commission and prior notice of at least seven days to the unit holders.”

(5) in regulation (14),-

(a) in clause (i), the following shall be substituted namely:-

“(i) conduct due diligence to certify and ensure that the title to the Real Estate to be acquired for the purposes of the REIT Scheme is free from all defects, encroachments and encumbrances [except encumbrances resulting from borrowing as provided in regulation], etc. except to the extent specified in these Regulations;”

(b) in clause (xxxvii), for the expression “Listed Companies (Code of Corporate Governance) Regulations, 2017” the expression “Listed Companies (Code of Corporate Governance) Regulations, 2019” shall be substituted;

(c) after clause (l), the following new clause shall be inserted namely:-

“(li) make sufficient arrangements for ensuring prevention of money laundering and terrorist financing, and abide by such laws, directives and circulars as may be issued by the Federal Government or the Commission to safeguard the RMC against involvement in money laundering and terrorist financing activities, including the SECP (Anti-Money Laundering and Countering Financing of Terrorism) Regulations, 2018 and the guidelines issued thereunder.”

(6) in regulation 37, in sub-regulation 1 in clause (ii),-

(a) for the word “Ordinance” the word “Act” shall be substituted;

(b) the semicolon appearing at end of clause a full stop shall be substituted;

(7) in regulation 40, in sub-regulation 1 in clause (ii), for the word “Ordinance” the word “Act” shall be substituted;”

(8) in regulation 43, in sub-regulation 1 for the word “Ordinance” the word “Act” shall be substituted;

(9) in Schedule VIII,

(a) in sub-clause (ii) of clause 3 under the heading “Competence and Capability” the words “and at least one director shall have five years’ experience of developing and managing real estate projects” shall be deleted;

(b) in clause 4 under the heading “Conflict of Interest”, the following shall be substituted, namely,-

“(4) Conflict of Interest.- The directors or chief executive of RMC shall not -

(i) be a director in any other RMC engaged in a similar business in Pakistan:

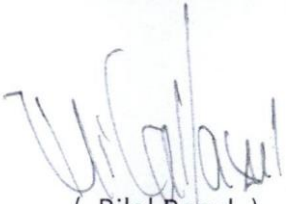
Provided that this condition shall not apply to nominees of the Federal or Provincial Governments on the board of any RMC;

(ii) be a director, chief executive, chief financial officer, chief internal auditor, research analyst or a trader (by whatever name or designation called) in a stock brokerage house or in any company or entity owned and controlled by a member of a

stock exchange; and

- (iii) be engaged in the business of brokerage or is a spouse of such person who is engaged in the business of brokerage or in control of more than 20% shareholding, directly or indirectly through his close relatives.
- (iv) in case of Key Executives, the RMCs must ensure that no Key Executive shall head more than one functional area that give rise to conflict of interest within the organization. For example, the departments of audit and accounts shall not be headed by the same person. Further, a key executive shall not hold directorship in his or her personal capacity:-
 - (a) in a business concern which is also a client of the RMC; and
 - (b) in any other financial institution.”
- (c) in Affidavit appearing as Annexure B,-
 - (a) in clause 1, the expression “Non-Banking Finance Companies (Establishment & Regulation) Rules, 2014, the expression “Non-Banking Finance Companies (Establishment & Regulation) Rules, 2003” shall be substituted;
 - (b) in clause 4, the expression “Non-Banking Finance Companies and Notified Entities Regulations, 2008”, the expression “Real Estate Investment Trust Regulations, 2015” shall be substituted.

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(Bilal Rasul)
Secretary to the Commission