

## Chapter 5C: PRIVATELY PLACED DEBT SECURITIES' LISTING REGULATIONS

### 5C.1. APPLICABILITY OF REGULATIONS:

- 5C.1.1. These Regulations shall apply to listing of debt securities issued through private placement under section 66 of the Companies Act.
- 5C.1.2. The provisions of this chapter shall not apply to the listing of debt securities issued through public offer and listing of Government Debt Securities.

### 5C.2. DEFINITIONS:

5C.2.1. In this chapter, unless the subject or context otherwise requires:

- (i) "Bid Price", means the price at which the market maker is willing to buy the debt security.
- (ii) "Company", means a public company or a body corporate applying for listing of its Debt Securities under this Chapter.
- (iii) "Debt Securities Trustee", means a person as defined in the Debt Securities Trustees Regulations, 2017.
- (iv) "Information Memorandum", means a document outlining the salient features, risks and terms of a debt security offered/issued to the QIBs through private placement.
- (v) "Market Maker", has the same meaning as assigned to it in Chapter 12 of these Regulations.
- (vi) "Market Making", means continuous submission of two-way quotes i.e. Bid Price and Offer Price by a Market Maker for the purchase and sale of debt securities of the company.
- (vii) "Offer Price", means the price at which a Market Maker is willing to sell the debt security.
- (viii) "Qualified Institutional Buyers (QIBs)", means the schedule banks and financial institutions as defined in the Companies Act and any other person notified by the Commission under section 66 of the Companies Act as person to whom instrument of redeemable capital can be issued,
- (ix) "Short Term", means the same as assigned to it in Chapter 5B.
- (x) "Spread Limit", has the same meaning as assigned to it in Chapter 12.

5C.2.2. All other words and expressions used but not defined in this Chapter shall have the same meanings as assigned to them in the Companies Act and the Securities Act, 2015.

### 5C.3. ELIGIBILITY CRITERIA FOR LISTING:

A company may apply for listing of its debt securities offered and issued to QIBs through private placement under this Chapter, provided that:

- (i) it is a public company;
- (ii) it is authorized by its memorandum of association or other constitutive document to issue the debt security;
- (iii) its paid up capital is not less than Rs.25 million;
- (iv) the total issue size is not less than Rs.25 million;
- (v) in case of a listed company, none of its securities is on the defaulters' segment of the Exchange;
- (vi) none of its controlling directors, sponsors, or promoters is defaulter of the Exchange;
- (vii) none of its controlling directors, sponsors, or promoters is also the controlling director, promoter, or sponsor in other listed companies, which are in the defaulter segment or which has been delisted by the Exchange;
- (viii) neither the company nor any of its promoters, sponsors or directors has any overdue loan of any financial institution.

Provided that this condition shall not apply to nominee directors of the Government and Financial Institutions.

- (ix) neither the company nor any of its associated companies is defaulter on payment of profit or repayment of principle amount on any debt security earlier listed on the Exchange.
- (x) the debt security is redeemable, if issued under section 66 of the Companies Act.  
[Explanation No. 1: An instrument in the nature of redeemable capital may have the conversion option i.e. the option of conversion into ordinary shares of the issuer.]  
[Explanation No. 2: This clause (x) shall not apply to an issue of perpetual debenture or any other perpetual debt security.]

### 5C.4. CONDITIONS FOR LISTING:

A company intending to list its debt securities under this Chapter shall comply with the following conditions:

- (i) the company has appointed a Debt Securities Trustee, licensed by the Commission, for a period not less than the tenure of the debt security.

- (ii) the Debt Securities Trustee so appointed may retire from its office on appointment of a new Debt Securities Trustee and the retirement shall take effect at the same time as the new Debt Securities Trustee is appointed with the approval of the Exchange.
- (iii) the company has appointed, through an agreement in writing, a Market Maker for a period not less than the tenure of the debt security.
- (iv) the company has appointed Legal Advisor to the Issue, through an agreement in writing.
- (v) in case of secured debt securities, charge has been created on the assets of the company in the form and manner acceptable to the Debt Securities Trustee and 125% security cover is maintained at all times.
- (vi) the company Secretary or any other officer of the company is designated as Compliance Officer who shall perform such functions as mentioned in Clause 5C.11.
- (vii) the company, before making application for listing of a debt security, has obtained a letter from the Central Depository company of Pakistan Limited (CDC) declaring the debt security eligible for induction into Central Depository System (CDS).
- (viii) the debt securities shall be issued only in the Book-Entry Form.
- (ix) the company shall obtain International Bank Account Number (IBAN) of each initial subscriber and subsequent purchaser of the debt security for direct credit of profit and repayment of principal amount.
- (x) the company fulfils the relevant requirements of the Private Placement of Securities Rules, 2017.
- (xi) **Credit Rating:**
  - (a) The debt security, other than a short term, is rated from a credit rating company licensed by the Commission and the instrument rating is not less than BBB+ (triple B plus).
  - (b) Short term debt securities are not required to be rated provided the issuer is rated and such rating is not less than BBB (triple B).
  - (c) The credit rating report is prepared on the basis of the company's latest audited accounts or latest reviewed accounts, if the audited accounts are older than six months.
  - (d) In case where the instrument rating is obtained from more than one credit rating companies, all such ratings shall be disclosed in the information memorandum.

#### 5C.5. GENERAL CONDITIONS:

The following conditions, in addition to the above, shall also apply to the debt securities listed under this Chapter:

- (i) No advertising material, booklet, flyer, magazine, circular or any other document inviting general public or a class of the general public for subscription of the debt securities shall be published, displayed or run in the print or electronic media or telecasted on radio channels.
- (ii) In case of secured debt security, the company shall give an undertaking in the information memorandum to the effect that the assets on which charge has been created are free from any encumbrances and if the charged assets are already charged to secure any other debt, consent of the creditors having charge on the charged assets has been obtained.
- (iii) Save as provided in the Trust Deed, the company shall not:
  - (a) make any change in the charged assets i.e. the assets backing the debt security; and
  - (b) shall not establish any additional charge thereon.
- (iv) The sponsors of the issuing company shall not participate in subscription of debt securities offered to QIBs.
- (v) Allocation to or subscription by any single QIB shall not exceed twenty percent (20%) of the total issue size.
- (vi) Number of initial subscribers of the debt securities shall not be less than five (5).
- (vii) The company shall ensure credit of the debt securities into the investors' respective CDS accounts within ten (10) days of the approval by the Exchange for listing.
- (viii) The debt security shall not be issued to and transferred in the names of persons other than QIBs.

#### 5C.6. LISTING PROCEDURE:

For listing of a debt security, the following procedure shall be followed:

- (i) The company shall make the offer of such debt security to QIBs only through an information memorandum.
- (ii) The company, after finalization of the list of subscribers shall make an application to the Exchange on Form-I for listing of its debt security along with the documents and information as mentioned in Annexure-I.
- (iii) The company shall pay an initial and annual listing fee of such amount as mentioned in clause 5C.12.
- (iv) The Exchange may reject any application for listing of a debt security at its sole discretion if it deems that listing of the debt security is not in the interest of the market, the company does not meet the minimum eligibility criteria set out in this Chapter or the company is in contravention of any provision of this Chapter.

Provided that the company shall be given an opportunity of hearing by the Exchange before the listing application is rejected.

### 5C.7. CONTENTS OF INFORMATION MEMORANDUM:

- (i) The information memorandum to be circulated to QIBs for offer of one or more types of debt securities of a company shall contain at least such information as provided in Annexure-II to this Chapter.
- (ii) The information memorandum shall be a private document and shall be circulated only to QIBs.
- (iii) The information memorandum shall not be used as a document inviting the general public or a class of the general public for subscription of debt securities and shall include a statement to this effect on its cover page.

### 5C.8. POST LISTING REQUIREMENTS:

- (i) Payment of profit and repayment of principal amount to the debt security holders shall be made through direct credit in their respective IBANs.
- (ii) The instrument rating shall be reviewed at least annually based on the latest audited accounts from the credit rating company mentioned in regulation 5C.4.
- (iii) The company shall provide access to the Debt Securities Trustee to the books of accounts and record relating to the debt security.
- (iv) The company shall submit to the Exchange, the Debt Securities Trustee and the debt security holders minutes of the meetings of the debt security holders within fourteen days of the date of such meetings.
- (v) The company shall maintain register of the debt security holders.
- (vi) The company, till complete redemption of the debt security, shall ensure that:
  - (a) the unclaimed profit, if any, is not forfeited and is kept under a separate head of account namely, "Unclaimed Profit"; and
  - (b) no modification has been made in the features of the debt security like in its term, coupon rate, conversion, redemption, security arrangement etc. by any manner otherwise than that as disclosed in the information memorandum and the trust deed.
- (vii) The company shall, upon request by the debt security holders, provide either weblink or copies of its accounts.
- (viii) **Book Closure:**
  - (a) Book closure for determination of entitlement for profit, redemption of the principle amount, meeting of the debt security holders or any other corporate action shall be made in such form and manner as specified in the Companies Act.
  - (b) Book closure shall be intimated to the Exchange in the form and manner as specified in Chapter 5 of the PSX Regulations.
- (ix) The company shall neither exercise any lien whatsoever on listed debt security nor shall there be any restriction on their transfer.
- (x) In case the Market Maker appointed by the company discontinues to act as Market Maker due to any reason, it shall immediately appoint another person eligible to act as Market Maker.
- (xi) **Reporting:**

The company shall report and submit to the Exchange and the Debt Securities Trustee the following information and documents:

- (a) copy, in soft form, of the list of its debt security holders within 30 days of the end of each half year;
- (b) statement regarding the payment of profit on the debt securities and repayment of the principal amount, on semi-annual basis till complete redemption of such debt security;
- (c) copy of its latest audited annual and half-yearly accounts and quarterly accounts, if any;
- (d) copy of the reviewed rating reports highlighting change, if any, in the credit rating and the reason causing the change;
- (e) copy of any notice, letter, circular, resolution, etc. including notice for meeting of the debt security holders issued or published in print media or letter, circular issued to the debt security holders in connection with the debt security or resolution passed or propose to be passed relating to new issue of a debt security by the company;
- (f) the date, at least five working days in advance or any shorter period as may be allowed by the Exchange in exceptional circumstances, of the meetings of its Board of Directors at which issuance of any debt security or any other matter affecting the rights or interests of holders of the debt security is proposed to be approved;
- (g) certificate from its auditors regarding maintenance of one hundred and twenty five percent (125%) security cover in respect of the secured debt security. The certificate should be submitted on annual basis along with submission of the annual accounts;
- (h) certificate from its auditors, on annual basis, regarding maintenance of redemption reserve fund, where required;

- (i) decision of the Board of Directors of the company regarding prepayment of any debt obligation, if any;
- (j) delay or default, if any, in payment of profit and repayment of principal amount on the debt security listed under this Chapter or any other debt obligation and reasons thereof. The Exchange may notify the fact of such default and the name of the defaulting company by notice and also by publication of the same in the daily quotations of the Exchange;
- (k) change, if any, in terms of the provisions of the information memorandum and the Trust Deed, in the nature and features of the debt security or in the rights and privileges of its holders as and when occurred;
- (l) any other material information that is necessary to be known to the holders of the debt security to avoid creation of a false market in such debt security;
- (m) change, if any, in the nature of business of the company due to any reason;
- (n) any significant event which may have adverse impact on the company's capacity of redeeming the debt security as per the redemption schedule disclosed in the information memorandum;
- (o) Change, if any, of the Debt Securities Trustee on the same day;
- (p) change, if any, in its management and address of its registered office, as and when occurred;
- (q) change, if any, that may have effect on the rights and privileges of the debt security holders;
- (r) prohibitory order, if any, restraining the company from transferring the debt security from the name of any debt security holder;
- (s) any transaction whether related party or otherwise that adversely affect interest of the debt security holders;
- (t) any action against or by the company which may result in the redemption, conversion, cancellation, retirement in whole or in part of the debt security;
- (u) any action against or by the company that would adversely affect payment of profit and repayment of the principal amount; and
- (v) any other information or document as may be required by the Exchange.

#### **5C.9. ROLES AND RESPONSIBILITIES OF THE DEBT SECURITIES TRUSTEES:**

- (i) The Debt Securities Trustee shall be responsible to perform such functions and duties as prescribed in the Debt Securities Trustee Regulations, 2017.
- (ii) The Debt Securities Trustee shall share with the Exchange in time, its correspondence with the company regarding delay in profit payment or repayment of principal amount or the charged assets or any other matter concerning the debt security.

#### **5C.10. ROLES AND RESPONSIBILITIES OF THE MARKET MAKER:**

The Market Maker, in addition to its role and responsibilities as prescribed in Chapter 12 of the PSX Regulations, shall be responsible to perform the below mentioned functions:

- (i) The Market Maker shall provide two-way quotes in the debt security for which it is appointed as a Market Maker.
- (ii) The spread limit to be charged by the Market Maker shall not be more than 10%.
- (iii) The Market Maker shall at all times hold atleast 1% of the outstanding principal amount of the debt security.
- (iv) Market Maker shall purchase or arrange purchase of the debt security from any holder that tenders such security for sale to it.
- (v) Market Maker may sell or arrange sale of the debt security to any investor that intends to purchase it.
- (vi) Market Maker shall make available copy of the information memorandum to the debt security holders at all times during the tenure of the debt security.

#### **5C.11. ROLES AND RESPONSIBILITIES OF THE COMPLIANCE OFFICER:**

- (i) The Compliance Officer shall be responsible for ensuring compliance by the company with all the requirements of the agreements executed with the initial subscribers; the information memorandum; section 66 of the Companies Act; this Chapter and the directives issued, if any, by the Exchange from time to time and other regulatory requirements applicable on the debt security.
- (ii) The Compliance Officer shall report status of the compliance mentioned in sub-clause (i) above at every meeting of the Board of Directors of the company till complete redemption of the issue.
- (iii) The Compliance Officer shall also report status of the compliance, mentioned in sub-clause (i) above, directly to the Debt Securities Trustee, within 15 days from the end of each half year.

#### **5C.12. PAYMENT OF LISTING FEES:**

A company applying for listing of its debt security under this Chapter shall pay to the Exchange an initial and annual listing fee at the rate as mentioned below:

- (i) an initial listing fee equivalent to 0.025% of the total issue size of the debt security subject to a maximum of Rs.0.2 million; and
- (ii) an annual listing fee of Rs.30,000/- shall be payable in respect of each financial year of the Exchange, commencing from 1st July and ending on 30th June next, before the 30th September in each calendar year.

#### **5C.13. TRADING AND SETTLEMENT OF SECURITIES:**

Trading in debt securities listed under this Chapter shall commence one day after the date of their formal listing through Bond Automated Trading System (BATS) and settled through National Clearing Settlement System (NCSS).

#### **5C.14. SUSPENSION OF TRADING:**

The Exchange may suspend trading in a debt security where:

- (i) Trading in such security is not being conducted in an orderly manner;
- (ii) the integrity and reputation of the market has been or may be impaired by dealings in the debt security;
- (iii) it considers that the company has failed to comply with any provision of this Chapter; or
- (iv) the protection of investors so requires.

#### **5C.15. DISCIPLINARY ACTION:**

If the Exchange considers that the company has defaulted or contravened any provision of this Chapter, it may take any one or more of the following measures:

- (i) it may impose a fine on the company not exceeding Rs.100,000/- for each default or contravention, and, in case of continuing default, failure, refusal or contravention, a further fine not exceeding Rs.10,000/- for every day after the first day during which such contravention continues:

Provided that no such penalty shall be imposed unless an opportunity of hearing is granted;

- (ii) censure or warn it;
- (iii) publish the fact that the company has been fined, censured or warned; and
- (iv) it may place the debt security on the defaulters' segment if payment of profit or repayment of principal amount is delayed.

#### **5C.16. REPEAL:**

The Regulations Governing Over-The-Counter (OTC) Market are hereby repealed.