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**SECURITIES AND EXCHANGE ORDINANCE,
PAKISTAN:
REVIEW AND RECOMMENDATIONS**

USAID/Pakistan

August 11, 1993

Final Report

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Price Waterhouse



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Mr. Hussain Babur
Project Officer
USAID/Pakistan
Private Investment Enterprise Division
Office of Private Enterprise & Energy
Diplomatic Enclave
18, 6th Avenue Ramna-5
Islamabad, Pakistan

RE: Financial Sector Development Project
Contract No.: PDC-2206-Z00-8191-00
PIO/T No.: 391-0514-3-00179

Dear Mr. Babur:

Please find attached five copies of the final report, *Securities and Exchange Ordinance, Pakistan: Review and Recommendations*, prepared by Price Waterhouse, Prime Contractor under FSDF. This is to follow up on John Evans' final report, which he faxed to you on June 25, 1993. The enclosed version is in Price Waterhouse's standard final format.

We greatly appreciated the opportunity to assist USAID/Pakistan in this important assignment, and look forward to further collaboration with the Mission in the future.

Sincerely,

Barbara Friday
Deputy Director, FSDP

Enclosure

SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS

TABLE OF CONTENTS

| | <u>Page</u> |
|--|-------------|
| <i>REPORT OVERVIEW</i> | 2 |
| I. GENERAL RECOMMENDATIONS | 3 |
| II. SPECIFIC RECOMMENDATIONS MADE TO THE SECURITIES AND EXCHANGE ORDINANCE, RULES AND PROPOSED CHANGES | 6 |
| III. APPENDICES | |
| A. Securities and Exchange Manual | |
| (1) Securities and Exchange Ordinance, 1969 | |
| (2) Securities and Exchange Rules, 1971 | |
| (3) Investment Companies and Investment Advisers Rules, 1971 | |
| (4) Statutory Notifications 1969, 1970, 1972, 1980, 1981 | |
| (5) Circulars | |
| B. Statement Showing Existing and Proposed Provisions of Securities and Exchange Ordinance, 1969 | |
| C. Proposed Chapter IV-A - Insider Trading | |
| D. List of People Interviewed | |
| E. Draft of Proposed Rules of Conduct for Authority Members and Employees | |
| F. Example of Conflict of Interest Rule | |
| G. Excerpts from Indonesian Capital Market Competency Examinations Registration Information Booklet for Broker-Dealers, Underwriters and Investment Advisers | |

*SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS*

REPORT OVERVIEW

This report contains recommendations for amendments to the Securities and Exchange Ordinance, 1969 as amended up to February 6, 1984 and proposed draft revisions to that Ordinance. Recommendations for changes to several existing and proposed rules and regulations related to the Ordinance are also included. This report is sponsored by USAID to assist the Government of Pakistan to improve the regulatory structure, stimulate the development of the capital market in Pakistan and increase confidence in the market.

The recommendations are made by John R. Evans based on a review of the existing Securities and Exchange Ordinance 1969 as amended, existing rules issued by the Authority under the Securities and Exchange Ordinance, a draft of proposed amendments to the Ordinance provided by the Corporate Law Authority, the Companies Ordinance 1984, and other documents regarding the capital market in Pakistan, discussions with officials of the Corporate Law Authority, the Karachi, Lahore, and Islamabad stock exchanges in Jakarta Indonesia, Washington DC, Karachi and Islamabad, and bankers, brokers, dealers, investment institutions in Karachi and Islamabad. (See Appendix D for a list of persons with whom discussions were held).

I. GENERAL RECOMMENDATIONS

Every country is unique with a different history, economic development, customs, political make-up and legal framework. To be most effective in meeting present and anticipated needs and conditions, the regulatory structure for the capital market in each country must be based on these unique characteristics and embody basic capital market development and regulatory principles. That cannot be accomplished by making recommendations based on a review of existing and proposed capital market legislation, rules and regulations, regardless of the experience and expertise of the reviewer, in the absence of an understanding of practices and conditions within the country. It is also important to consider the interests of all participants in the capital market including issuers of securities, investors, capital market professionals such as brokers, dealers, underwriters, investment bankers, securities exchanges, investment advisors, investment managers, transfer agents, custodians etc.

The goal of a developmental and regulatory structure should be to facilitate and maintain an environment in which securities can be issued and traded in a fair, efficient and orderly way and in which responsible investors may make informed investment decisions and be protected from improper securities activities of others.

Important elements of a regulatory system include the following:

Government Agency/Authority

1. Regulatory responsibility and authority for all aspects of the market should be specific, not general, and should be given exclusively to one agency or authority with an opportunity for those who believe that the agency has acted in an improper or unfair manner to appeal to a higher administrative authority or court. Because of the complexity of capital markets and the heavy backlog of cases on the agenda of the courts in most countries, it is often necessary to establish a special system to deal with capital market cases. The structure of the Corporate Law Authority already provides for appeal of, decisions made by CLA members to the Chairman or to the Authority sitting "en banc". If this is not deemed to be sufficient to assure an objective review, it would be appropriate to permit aggrieved parties to appeal to the Company Bench, constituted by the Chief Justice of the High Court under section 8 of the Companies Ordinance, for a decision no later than ninety days as required by section 9.

*SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS*

2. The agency or authority and its officials should be as insulated as possible from political considerations and pressures. This includes appointment and removal from office as well as their decision making. Such insulation provides investors with greater confidence that all participants in the market are being treated fairly.
3. The regulatory agency should have flexibility with respect to the selection of its staff and allocation of its budget on the basis of its needs.
4. The government agency should establish minimum licensing and operational requirements for industry professionals and assure compliance with such standards. This can be done either directly by the Authority or in conjunction with self regulatory organizations or educational institutions depending on the budget and staffing constraints imposed on the Authority and the ability and effectiveness of other organizations to accept and fulfill such responsibilities. If the Authority uses other institutions, it must review, approve and oversee the process to assure proper competence of industry professionals. (See Appendix G)
5. The government agency should, to the maximum extent possible, be consistent with public policy considerations, permit private sector participants in the market to make all decisions with respect to types and amounts of securities to be offered, as well as the timing and prices of such securities offerings.
6. The government agency can minimize its interference with the operation of free market forces and maximize the use of its resources by establishing a regulatory structure in which industry participants are permitted to engage in self regulation, with government oversight and enforcement as necessary.
7. To the extent self regulatory organizations, such as exchanges, establish rules for their members, the government agency should have the authority to deny or grant approval of such rules before they go into effect, in order to assure that the rules are not anti-competitive and that they take into consideration the legitimate interests of issuers, members and investors as well as the general public.
8. The government agency should have authority to interpret provisions of the law and to issue rules, regulations and guidelines on all matters under its jurisdiction.
9. The government agency must have the ability to limit or withdraw the license or authority for any licensed, registered or approved person to participate in capital market activities.

*SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS*

10. Persons who suffer loss due to illegal or prohibited activities of others should be able to obtain redress through arbitration, administrative, and or court procedures.

Regulatory Requirements/Standards and Practices

11. Established standards and practices should be consistent with recommended international standards if foreign investor participation is desired in the market.
12. Regulatory requirements established by the government should be limited to what is necessary to promote fairness in the market, appropriate qualifications for professional market participants, public confidence in the market system, adequate opportunity for competition and prevent market failure.
13. The law should set minimum qualification and operational standards but should not include operational details.
14. Maximum penalties should be provided for in the law, but the agency responsible to administer the law should have specific authority to adjust such penalties based on the facts and conditions of each case.
15. Industry participants, investors and issuer corporations should have the opportunity to give their views on proposed laws, rules and regulations in order to make use of their expertise and avoid unnecessary regulatory burdens.
16. Because securities exchanges are service organizations that can have a major impact on the development and operation of the Capital Market, all effected persons should be given an opportunity to give their views on proposed listing requirements and trading, clearance and settlement systems.
17. No sanctions should be imposed without giving the intended recipient an opportunity to give his views and there should be an opportunity for all recipients of sanctions to appeal their case to a higher administrative authority or court.

**II. SPECIFIC RECOMMENDATIONS MADE REGARDING THE SECURITIES
AND EXCHANGE ORDINANCE, RULES ISSUED SUBJECT TO THAT
ORDINANCE AND PROPOSED AMENDMENTS TO THE ORDINANCE**

The following are specific recommendations made with respect to the Securities and Exchange Ordinance rules thereunder and other proposals for changes to the Ordinance with accompanying reasons. Some of the recommendations are far-reaching, whereas others are intended to clarify existing language and others are editorial in nature.

In making the recommendations, an attempt was made to conform the changes as much as possible to the existing framework rather than to restructure the whole system. However it is recommended that the Capital Market Authority consider the possibility of consolidating the Companies Ordinance and the Securities and Exchange Ordinance into one ordinance to remove duplicative provisions and facilitate understanding of regulations applicable to various types of companies.

#1 *Recommendation:* Proposed definition 2(aa) "Authority" means Corporate Law Authority. Should be numbered 2(aaa).

Reason: 2(aa) is a proposed definition of "Asset Management Company".

#2 *Recommendation:* Add a new definition: 2 (bb) "beneficial owner" means a person who has the power to direct the voting or sale of securities or the right to direct the receipt of income from, or proceeds from, the sale of securities."

Reason: The term beneficial ownership is used in Article 17 (c)(iii), (iv) and (vi) and thus needs to be defined.

#3 *Recommendation:* Add a new definition: 2(ccc) "deal in securities" means to buy or sell, agree to buy or sell or to offer to buy or sell securities for one's own account or for the account of another person;

Reason: The term "deal in securities" is used in proposed CHAPTER IV-A.

SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS

#4 *Recommendation:* Amend 2(d) by adding "by the Authority" after the word "prescribed" on the last line.

Reason: It is important to specify that it is the Authority that has the power to prescribe the definition of an "equity security".

#5 *Recommendation:* Add a new definition 2(ddd) as follows: "interest" means the interest in securities that exists when a person:

a. directly or indirectly, alone or jointly with others, owns securities or is the beneficial owner of securities that are under the control of another person;

b. alone or with other persons acting in concert influences or controls a company that has an interest in securities; or

c. has agreed to purchase securities, or has the right to transfer securities to his name, or has the power to exercise rights or warrants with respect to such securities, unless such person is only a nominee of a registered shareholder.

Reason: The term "interest" with respect to shares is used in a definition proposed in CHAPTER IV-A for "relevant shareholder", but the term is not defined.

#6 *Recommendation:* Amend 2(e) by inserting the word "any" before the word "person" on line 1.

Reason: Clarifying edit.

#7 *Recommendation:* Amend 2(e)(iii) by replacing the word "jobber" in line 3 with the word "dealer", and replace the word "jobber" where ever it occurs in the Ordinance and the rules written subject to the Ordinance with the word "dealer".

Reason: It has been proposed to amend 2(h) from "jobber" to "dealer or jobber". To be more in accord with international usage, it is recommended below that the term be just "dealer", and this would conform to that change.

SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS

#8 *Recommendation:* Amend proposed new 2(h) to delete the words "or jobber", return and insert the words "or in some other fiduciary capacity" after the word "individually", and place the definition under section "2(g)" instead of "2(h)" to put it in new alphabetical order.

Reason: To be more in accord with international usage, and to include language that appears to have been omitted by mistake.

#9 *Recommendation:* Renumber the definition of "issuer" from "(g)" to "(h)".

Reason: To put in alphabetical order.

#10 *Recommendation:* In the Proposed text of 2(h)(ii), delete "III" after the word "Chapters", the "s" of the word "agents" and the word "director".

Reason: The word "officer" is not used in the proposed new Chapter III, the "s" should be deleted to conform with other terms which are in the singular, and the word "director" is already used in every place in which the word "officer" is used, thus the proposed new definition does not need to duplicate the word "director". If however, it was included in the definition of officer in order to have the qualifying phrase "by whatever name designated" apply to the word "director", then "director" could be retained in the new definition and deleted in each place already used.

#11 *Recommendation:* Amend the definition of "person" in 2(j) by replacing the word "includes" with "means an individual,".

Reason: A "Hindu undivided family" is not a term that will be understood by foreigners and it is important to understand that "person" includes an individual, (see Articles 3, 7(2), 8(1),(3),(4), 17, and 17(d).

#12 *Recommendation:* Add a new definition (kkk) as follows: "related company" in relation to a company, means any company which is that company's subsidiary, or holding company, or a subsidiary of that company's holding company;

*SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS*

Reason: The term "related company" is used and defined in proposed CHAPTER IV-A. It is desirable to have all definitions for the Ordinance together at the beginning of the Ordinance. The wording of the definition as proposed in CHAPTER IV-A has been changed because it appears to have been patterned after the insider trading provisions in Singapore which refers to "body corporate", whereas that term is not otherwise used in the Ordinance.

- #13 Recommendation:** Add a new definition (kkkk) as follows: "relevant shareholder" in relation to any company means a person who has an interest in equity shares of that company of nominal value equal to at least 10 percent of the share capital;

Reason: The term "relevant shareholder" is used in proposed CHAPTER IV-A. It is desirable to have all definitions for the Ordinance together at the beginning of the Ordinance. The wording of the proposed definition has been changed to clarify its meaning and to provide for a definition of "interest" when relating to securities as used in this proposed definition.

- #14 Recommendation:** Amend 2(l) by replacing the word "includes" with the word "means", correct a typographical error in the spelling of the word "certificate" on the fifth line of (i), delete the words "or any note" on line ten of (i), and add "or any other instrument determined by the Authority to be a security" at the end of (i).

Reason: Other definitions use the term "means" rather than "includes", "certificate" is misspelled, the phrase "of any note" on line ten was inserted by mistake, and the added language at the end would permit the Authority to include new instruments in the definition of security as appropriate.

- #15 Recommendation:** Add a new definition 2(kk) as follows: "public offering" means an offering of securities by an issuer conducted in Pakistan or to Pakistani citizens, using the mass media, or offered to more than 100 persons or sold to more than 50 persons, within limits of value of the issue and of time as determine by the Authority.

Reason: Seeking to obtain capital from the public should be the event that triggers regulation by the government to protect investors, not listing on a stock exchange. These numbers would appear to conform to definitions 28 and 30 of the Companies Ordinance regarding a public company.

#16 Recommendation: That the term "Stock Exchange" in proposed new 2(m) be replaced with the term "Securities Exchange". If this recommendation is accepted, it is also recommended that everywhere in the Ordinance and in the rules where "Stock Exchange" is used as a general term, it should be replaced with "Securities Exchange". Proposed new 2(m) should also be amended to read as follows:

"2(m) Stock Exchange (Securities Exchange) means any person that constitutes maintains or provides a market place or facilities for bringing together buyers and sellers or offers to buy or sell listed, or unlisted securities or for otherwise performing functions commonly performed by a Stock Exchange (Securities Exchange) as that term is generally understood, and includes such market place and facilities."

Reason: The term "Securities Exchange" is a more appropriate term to describe an exchange on which securities other than stock may be traded. The term "person" is defined to include all types of entities. Deletion of the proposed "Incorporated under the Companies Ordinance, 1984 removes a limitation in the definition that would permit, persons not incorporated under that Ordinance to escape registration and other regulatory requirements as an exchange under the Ordinance. The form of organization required for registration, if any should be specified in another article. (See recommendation #30) The language recommended above also provides for regulation of an over-the-counter market in non-listed securities.

#17 Recommendation: Add a definition for Underwriter to section 2 as follows: (n) "underwriter" means a person that has made a contract with an issuer to buy securities from the issuer or a control person of the issuer for the purpose of selling such securities in a public offering; or a person who has made a contract with an issuer or a control person of the issuer to offer or sell securities in a public offering."

Reason: The term underwriter is used in a proposed section.

*SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS*

#18 Recommendation: Delete the explanation at the end of Chapter I that defines a Modaraba Certificate and replace it with a new definition 2(ii) as follows: "Modaraba Certificate" has the same meaning as contained in the Modaraba Companies and Modarabas (Flotation and Control) Ordinance 1980 (XXXI of 1980);

Reason: Put all definitions in the same place.

#19 Recommendation: Renumber articles so that Chapter 1-A will have numbers on its articles similar to the other chapters.

Reason: Proposed Chapter 1-A is too important not to have its own numbering system equal to the other chapters.

#20 Recommendation: The language of Chapter 1-A is too imprecise for the purpose of setting up such an important agency. In sub-section (1) under the title of Constitution of Corporate Law Authority, it would seem more appropriate to be very specific as to who, or what body will constitute the Authority by notification in the official Gazette. ie: The President, the legislature or some other official body instead of using a term such as the Federal Government, but this may be the normal procedure in Pakistan. The same comment applies to the appointment of the Chairman of the Authority. It would also seem more appropriate in sub-section (2) that the number of members of the Corporate Law Authority should be established in law along with their qualifications, procedures for appointment, terms of office, degree of independence, reasons for dismissal, procedures for dismissal, etc. This recommendation along with # 21 recommendation should be considered along with Recommendations number 1 and 2 dealing with powers and independence granted to the Authority under General Recommendations. It is also important not to establish the Authority in two separate ordinances as is presently the situation under Part III sections 11, 12 and 13 of the Companies Ordinance and in proposed new Chapter 1A of the Securities and Exchange Ordinance. Either is sufficient and there must not be a conflict.

Reason: Included in recommendation.

*SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS*

#21 *Recommendation:* Insert a new sub-section (3) under Constitution of Corporate Law Authority, as follows: "Except as specified in law or by a majority vote of the members of the Authority, all actions by the Authority shall be by a majority vote of sitting members." If there are more than three members, language should specify that a majority of the sitting members constitutes a quorum and that a majority of a quorum is sufficient to take action.

Reason: To establish official rules by which the Authority is to act.

#22 *Recommendation:* Amend proposed sub-section 2 under the "Powers and functions of the Authority" by deleting the words "all or" on line seven.

Reason: The recommendation will not limit the ability of the Federal Government to direct any of its powers or functions to be exercised or performed by the Authority, but it will remove the inference that all of the Federal Government's powers and functions might be transferred to the Authority.

#23 *Recommendation:* In line one of sub-section (4) replace the word "the" with the word "any".

Reason: To broaden the application.

#24 *Recommendation:* Sub-section (4) refers to proceedings or enquiries, but no authority is specified with respect to such enquiries. It is recommended that the language of proposed section 21(1) and(2) be moved to this section to precede sub-section (4).

Reason: It would be better if the provision authorizing a proceeding or enquiry were mentioned before a provision regarding what the Authority may require and what its procedures may be.

#25 *Recommendation:* If recommendation 24 is accepted, renumber succeeding sub-sections accordingly.

Reason: Proper numbering.

SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS

#26 *Recommendation:* Amend sub-section (5) by inserting "by the Authority" after the word "prescribed" on the last line.

Reason: It is necessary to state who shall prescribe procedures and it would seem most appropriate for such to be by the Authority itself in accord with standard Pakistani procedures for such activities.

#27 *Recommendation:* Amend sub-section 6 by replacing the words "Federal Government" in line one with the word "Authority" and delete the words "the Authority" in line three.

Reason: The appointment of officers to assist the Authority in the performance of its functions should be made by the Authority. Also the Authority should make regulations with respect to their duties. These appointments and regulations would, of course, be in accord with existing limitations on numbers and salaries, etc. Because of the technical nature of its work, however, it would also be desirable if the Authority could be authorized to exceed standard government salary levels for such officers as accountants, attorneys, examiners and other experts needed for carrying out its functions.

#28 *Recommendation:* Change all references in Chapter II from Stock Exchange to Securities Exchange.

Reason: To broaden the reference to include all types of securities.

#29 *Recommendation:* Amend proposed section (4)(1) line four by inserting the words "by the Authority" after the word "prescribed", by adding back in, after the word "ensure" on line four, "fair dealings and to protect investors and". Also, after "Ordinance" on the final line, add ", subject to the limitation in 3(2)".

Reason: To indicate that requirements are to be prescribed by the Authority. Also, sustainable economic viability may be a desirable criteria for granting an exchange to be registered, but it is not a substitute for requirements for fair dealings and investor protection.

SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS

#30 Recommendation: Amend proposed Section 4(1) by replacing the words "fulfill such conditions or complies with such" on line one with "is incorporated under the Companies Ordinance, 1984 and fulfills such other conditions or complies with such other"; or

Amend existing section 4 (2) by inserting a new paragraph (a) as follows:
"(a) form of organization;" and reletter other items accordingly.

Reason: Both alternative 1 and 2 deal with the form of organization of a stock exchange which was deleted from the definition for the reason stated in no. 4 above.

The first alternative would require incorporation under the Companies Ordinance to be eligible for registration. The second alternative would provide flexibility for the Authority to decide in each case whether to require incorporation. Because of the proposed broad coverage of the term Stock Exchange (Securities Exchange) there may be a reason in the future to permit unincorporated entities to be exchanges.

#31 Recommendation: Delete proposed new 4(2)(g).

Reason: Proposed new section 28 covers all fees.

#32 Recommendation: Amend section 4(2) by deleting the existing language of paragraph (c) and inserting instead, "representation of issuers and investors on the governing body of the Stock Exchange or any of its Committees";.

SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS

Reason: The Authority is granted the power to approve or disapprove all stock exchange rules and procedures and to oversee all stock exchange operations. This is the method by which the government should assure that stock exchanges act in the public interest. A stock exchange is a private corporation and under normal circumstances government officials should not be members of the governing body of a stock exchange or any of its committees. If such persons are appointed, their actions will have the effect of insulating the exchange from actions by the Authority and such persons will have unwarranted power over other members of the governing body of the exchange or its committees. On the other hand, in order to assure that exchanges consider the interests of all of their constituencies, it is important for them to have representatives of such groups on the governing body and possibly in some of their committees.

- #33 Recommendation:** Amend section 5(1) by replacing the words "Central Government" with the word "Authority". This same amendment should be made everywhere the words "Central Government" is used throughout the remainder of the Ordinance, except as specified otherwise.

Reason: The Authority should be the agency to act for the Central Government in all acts related to the Ordinance.

- #34 Recommendation:** In proposed section 5(1)(a), add on line three the word "of" after the word "notice" and on the first line of 5(1)(a)(i) replace the word "fresh" with the word "an".

Reason: Edits to improve the language.

- #35 Recommendation:** In proposed section 5(1)(b)(ii) on line 2 replace "trade" with "the capital market".

Reason: The interest of trade is not a suitable reason to establish a stock exchange. It should be in the interest of developing the capital market.

- #36 Recommendation:** On the third line from the bottom of proposed 5(1)(b), replace the word "inay" with the word "shall" and insert the word "with" after the word "Exchange" on the second line from the bottom.

Reason: If an exchange has met the prescribed requirements, including being in the interest of the capital market and the public, and is the most suitable of the applicants, the Authority should be required to grant a certificate of registration.

#37 Recommendation: In section 5(3), retain existing language rather than the proposed language change.

Reason: Any application that has met all of the established requirements including proposed 3(2) regarding need and location and proposed 5 (2)(b) regarding interest of the capital market and the public and is the most "suitable applicant" should be granted registration. Others should be told why their application was not granted and given an opportunity to present their views.

#38 Recommendation: All references to "Central Government" in Chapter 5 should be replaced with "Authority".

Reason: The Authority is the agency that is acting on behalf of the Central Government.

#39 Recommendation: Amend section 6(2) line three by replacing the word "returns" with the word "reports".

Reason: The word "report" can apply to all information required by the Authority.

#40 Recommendation: Amend section 7(1) by adding a new paragraph (a) as follows: "(a) in the case of a Stock Exchange;" and renumbering existing items (a), (b), (c) and (d) as (i), (ii) (iii) and (iv), amend new 7(1) (a) (iii) to read "remove the director or officer from his office in the Stock Exchange;" and insert a new 7(1) (b) stating: (b) in the case of a member of a Stock Exchange:(i) remove the member from his membership in the Stock Exchange; and/or, (ii) remove the member from any office he had in the Stock Exchange.

SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS

Reason: To clarify the intent of the provision that failure of a member to comply with requirements of the Ordinance is not reason to suspend business on the exchange, cancel the exchange's registration, or supersede its governing body. Removal of members from membership, or an office held, in an exchange is provided in a separate provision (7(1)(b)).

#41 Recommendation: Amend section 8(2) by inserting "or approved for trading on the Stock Exchange" after the word "Exchange" on the last line.

Reason: To provide for an over-the-counter exchange and for unlisted trading on an exchange.

#42 Recommendation: "Amend section 8(3) by replacing the word "person", on line one with the word "member", replacing the word "outside" on the second line with "other than in accordance with rules of" and delete the proviso following 8(3).

Reason: It may be appropriate for an exchange with approval of the Authority to have rules prohibiting its members from acting as a broker or dealer for listed securities outside of an exchange. However, it is not appropriate for an exchange to prohibit its members from such activities on another exchange in order to assure that the order flow is centered at a particular exchange unless the Authority specifically decides that such an anti-competitive restriction is in the public interest. A member of any Stock Exchange should be permitted to be a member of any other exchange and should be able to trade any securities listed or approved for trading on each exchange according to its rules.

#43 Recommendation: Amend section 8(4) to read as follows: "No person who is not a member of a Stock Exchange or registered by the Authority shall act as a broker or dealer for any non-exempt security under the jurisdiction of the Authority."

Reason: It is appropriate for the Authority either directly or indirectly (see item 4 page 4) to establish and enforce registration or licensing requirements as it determines necessary for any person to engage in the business of being a broker or dealer in securities under its jurisdiction. Discussions with exchange representatives, CLA officials and others raised the problem of unregulated persons acting as brokers and dealers in either listed or unlisted securities. This can be resolved either by requiring everyone acting as a broker or dealer to be a member of an exchange as broadly defined in definition 2(m) as proposed in this memorandum or through establishing a regulatory program for non-exchange members including competency, operating, monitoring and enforcement requirements. The first of these alternatives appears to best meet the desires of concerned persons.

#44 Recommendation: Amend Section 9(1) to read as follows: "(1) an issuer that intends to get any of its securities listed or approved for trading on a Stock Exchange or any broker or dealer who desires approval to trade on an exchange, securities of a company not listed on such exchange shall submit an application therefore to the Stock Exchange with the content and in the form prescribed by the Stock Exchange."

Reason: This recommendation provides for an over-the-counter market and for trading of unlisted securities on an exchange whether at the request of an issuer or a broker or dealer. In addition, the procedures for listing or trading on an exchange should be prescribed by the exchange, with the approval of the Authority. Listing or trading decisions should also be made by the exchange with an opportunity for an issuer whose securities have been denied listing or trading to appeal that decision to the Authority. The Authority may, in the interest of investors and the public, establish minimum requirements for listing or trading on any exchange and it may also require higher minimum standards on any specific exchange through its review process of all exchange rules and requirements. It should not, however, establish the specific requirements and the format for listing or trading nor it is necessary for the Authority to receive a copy of every application.

*SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS*

#45 Recommendation: In the interest of permitting the issuer of securities to determine whether listing of its securities is desirable, it is recommended that section 10 be deleted. If it is determined to retain the section for public policy reasons, amend the proposed article by deleting the words "consulting the Stock Exchange concerned and" on the seventh and eighth lines and insert the word "a" after the word "on" on the last line.

Reason: Listing securities on an exchange should be a decision made by an issuer in the interest of its shareholders after weighing the costs and benefits. If for some national policy reason the government retains the requirement that certain companies list their securities on a stock exchange, at least the government should not decide the exchange on which the company must list its securities.

#46 Recommendation: Either the Companies Ordinance and the Securities and Exchange Ordinance should be consolidated into one Ordinance as recommended in the second introductory paragraph to these recommendations, or the provisions that were formerly in Chapter III of the Securities and Exchange Ordinance and all other provisions in the Companies Ordinance relating specifically to companies that intend to make a public offering, have made a public offering, or are listed or traded on an exchange should be transferred to the Securities and Exchange Ordinance.

Reason: The Corporate Law Authority should be the sole administration agency, and the member of the Authority that is responsible for existing provisions of the Securities and Exchange Ordinance should be responsible, for all disclosure and other investor protection with regards to companies that have made offerings of their securities to the public, or are of a sufficient size and have a sufficient number of shareholders, that the government, as a matter of policy, believes need its involvement in order for investors to be able to have access to material facts and be protected from improper securities practices.

#47 Recommendation: Proposed section 12(1) should be amended by replacing the words "listed on a stock exchange" with "offered to the public".

Reason: Listing on an exchange should not be the event that requires an underwriter to meet the requirements deemed important by the Authority. Obtaining public access to the capital market in Pakistan should be the event.

*SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS*

#48 Recommendation: Among the requirements necessary to be registered as an underwriter should be an initial minimum amount of paid in capital and a continual minimum net capital.

Reason: Underwriters take on a major financial responsibility when they contract to underwrite an issue of securities. They should be required to be financially able to fulfill their commitments.

#49 Recommendation: Proposed section 13(1) should be amended to read as follows: "No person shall directly or indirectly make a fictitious application or submit more than one application for shares in any public offering.

Reason: To clarify the intent of the prohibitions.

#50 Recommendation: Amend proposed section 14(1) by inserting the word "a" after the word "as" in line one.

Reason: Edit.

#51 Recommendation: Delete the note that follows sub-paragraph 6 in section 14.

Reason: Securities Depository has already been defined in proposed section 2(kk), which should be changed to 2(kkkkk) because of other added definitions.

#52 Recommendation: The CLA should issue some rules relative to standards for providing credit, pledging and lending of customers' securities to protect customers from potential abuses by exchange members.

Reason: Section 16 of the Securities and Exchange Ordinance does nothing to regulate credit, pledging or lending of customers' securities in the absence of CLA rules.

#53 Recommendation: Amend section 17 by deleting the following language beginning on line one, "for the purpose of inducing, dissuading, effecting, preventing or in any manner influencing or turning to his advantage," and inserting in its place, "in

connection with".

Reason: As presently drafted, the prohibitions are limited to acts that are "for the purpose of inducing, dissuading, effecting, preventing or in any manner influencing or turning to his advantage". It can be reasonably argued that this language would require a showing of intent to commit a violation, and thus would be very difficult to enforce.

#54 Recommendation: Amend section 17(c) by deleting the words "or actively conceal".

Reason: "Omit to state" includes both inadvertent as well as active or intentional concealment.

#55 Recommendation: Amend section 17(d) by inserting ", by deception," after the word "induce" in the first line and delete the words "by deceiving him" after the word "person" in the same line.

Reason: Edit.

#56 Recommendation: Delete section 17(e)(vi).

Reason: This is an insider trading provision which is included in proposed CHAPTER IV-A.

#57 Recommendation: Insert a new section 17(e)(vi) as follows: "(vi) directly or indirectly participate in two or more transactions in a security with the intent of maintaining or stabilizing the price of such security for the purpose of inducing its purchase by others;"

Reason: Paragraph (vi) prohibits a series of transactions raising or lowering the price for the purpose of inducing others to buy or sell the securities. It is just as improper to engage in a series of transactions that maintain a specified price with the purpose of inducing others to buy or sell.

*SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS*

#58 Recommendation: Insert a new section 17(e)(vii) as follows: "(vii) In order to facilitate the functioning of the market in the public's interest, the Authority may determine to issue rules providing for exceptions to the prohibitions contained in this section in the case of brokers, dealers or underwriters."

Reason: There may be legitimate transactions that would be prohibited by provisions contained in section 17 such as:

a. Changing the trustee who holds securities for a minor beneficial owner: Such a case would violate (e)(iii) in the absence of an exception by the Authority.

b. Stabilizing purchases in an underwriting: Whenever a company that has made a public offering or has securities trading on an exchange desires to make an additional offering of securities to the general public, it desires to sell the new issue at the market price so that it will not dilute the value of the shares of existing shareholders. However, if the existing market price is determined by market forces of supply and demand and additional supply is offered, the price could be expected to decline below the market price. Also, the market might decline during an offering period, yet securities should be sold to all applicants at the same price. Thus, in many countries, underwriters are permitted to engage in what are called stabilizing purchases of shares offered on the market in order to maintain the price of the securities at the offering price during a public offering period. Rules permitting such stabilizing purchases always include limitations and require that the underwriter disclose in the prospectus the fact that stabilizing purchases may be made, the conditions under which such purchases might occur and under which they might cease.

#59 Recommendation: Amend section 19 to read as follows: "(a) The Authority and any person authorized to act on behalf of the Authority shall not use or communicate or otherwise disclose information obtained in the performance of functions under this Ordinance except in an attempt to achieve objectives of the Authority, or when required by law."

*SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS*

Reason: The provision, as it now reads, appears to prohibit all persons that perform any functions under this Ordinance from communicating any information to persons not legally entitled to receive it. This would appear to cover brokers, dealers, underwriters, investment advisors and all other persons covered by the Ordinance. It is possible that the provision was intended to be that broad, but more likely it was intended to prohibit the Authority and its authorized representatives from disclosing information other than to accomplish the purposes of the Ordinance. Moreover, the Authority should not be authorized to make disclosures to persons that are not legally entitled thereto without any restrictions as to purpose. The proposed language also prohibits any person acting on the Authority's behalf from using privileged information for personal purposes, (see Appendix E for a draft proposed ethics standard requested by the Authority).

- #60 Recommendation:** Amend section 19 by adding the following: "(b) The Authority and any person authorized to act on behalf of the Authority shall conduct their regulatory activities in such a way as to minimize interference with the legitimate business activities of persons under their jurisdiction".

Reason: To keep regulatory burdens to the minimum necessary to accomplish the purpose.

- #61 Recommendation:** Chapter IV-A should be structured in such a way that it has sections in accordance with the regular numbering system of the Ordinance. This would require renumbering all sections in CHAPTER V. For purposes of this review, however, existing numbers will be used for reference.

Reason: To retain consistency within the Ordinance.

- #62 Recommendation:** Amend proposed Chapter IV-A (1) by deleting the words "on a stock exchange" and "listed" on line three.

Reason: The prohibitions on trading with possession of inside information should not be limited to securities listed on a stock exchange because confidence in the fairness of securities markets can be undermined by insider trading of securities that are not listed on a securities exchange as well as those that are listed. Prohibitions should apply to any securities that have been sold in a public offering or that have been issued by a public company as defined.

#63 *Recommendation:* Amend Chapter IV-A (1) by deleting the words "he knows" on the fourth line.

Reason: Prohibitions on trading with possession of inside information should not be based on knowledge by the insider that the information is not generally available, or that if it were available would likely materially affect the price of the securities. It should be the duty of insiders to know whether the information is generally available to the public. In bringing an enforcement action, the Authority should not have to prove that the insider knew that the information was not generally available to the public.

#64 *Recommendation:* Amend proposed sub-section (2) by deleting "he knows" on line four and five.

Reason: Knowledge of (a), (b) and (c) of this proposed provision should not be required for the reasons stated in number 63.

#65 *Recommendation:* The explanation of "connected person" following sub-section (2) should be made into a definition and moved to the beginning of the Ordinance with other definitions as new 2(cc).

Reason: It is more orderly to have all definitions in one place.

#66 *Recommendation:* The new definition should read as follows: "connected person" with respect to a company means:

(a) a director or officer of that company;

(b) a relevant shareholder in that company or a related company; or

(c) a person who occupies a position with respect to a company that provides access to information which is not generally available and which if it were available would likely materially affect the price of securities of that company or any other company.

Reason: The recommended amendments simplify the proposed language while providing the same restrictions.

- #67 Recommendation:** Amend sub-section (3) to delete the words "on a stock exchange" on line two and line four and "listed" on line three. Also replace the word "procure" on line three with the word "influence".

Reason: The first recommendation is to broaden the effect of the provision to cover all securities over which the Authority had jurisdiction. The second recommendation is to replace a word that means "to cause" and which is not otherwise used in the Ordinance with one that is appropriately more inclusive.

- #68 Recommendation:** Amend proposed sub-section (4) to read as follows: "No person shall, at any time when he is prohibited by subsection (1), (2) or (3) from dealing in any securities by reason of his having any information, communicate that information to any other person if he knows, or has reason to believe, that such person may use the information for the purpose of dealing, or influencing any other person to deal, in those securities."

Reason: The recommended language conforms the subsection to previous recommendations and simplifies the provision.

- #69 Recommendation:** Delete sub-section (5).

Reason: Insider trading is extremely difficult to prove if any general exemptions are provided that relate to intent. Moreover, it is difficult to think of a situation in which the use of inside information can be justified when the other side of the transaction does not have access to the information.

- #70 Recommendation:** If the Authority believes that there are legitimate reasons to provide exemptions such as are proposed in sub-section 5, amend the sub-section to read as follows: "The provisions of this Chapter shall not prohibit a person by reason of having any information from engaging in any securities transaction or influencing another person to engage in a securities transaction if he proves to the satisfaction of the Authority that either:

(a) the transaction was not made with the intent of making a profit of avoiding a loss (whether for himself or another person) by the use of that information; or

(b) the transaction was made in good faith in the exercise of legal responsibilities as a liquidator, receiver or trustee in bankruptcy.

Reason: The first change is recommended because unless, as previously recommended, the Ordinance is redrafted to provide that the existing sub-sections of proposed Chapter IV-A are numbered sections, there are no sections in this Chapter. Other changes are recommended to simplify and clarify the language.

#71 Recommendation: Amend sub-section 6 to read as follows:

"(1) Whenever, after giving the person an opportunity to be heard, the Authority concludes that the person has violated any provision of this CHAPTER or the rules or regulations thereunder, the Authority shall, by order direct that such person pay compensation to any person who can be shown to have suffered loss in a transaction with the person who violated the provision because of the difference between the price at which the securities transaction took place and the price at which the transaction would likely have taken place if the violation had not occurred.

(2) The amount of compensation for which a person in violation is liable under (1) is the amount of the loss sustained by any person whom the Authority concludes suffered loss because of the violation.

(3) If it cannot be shown who suffered loss as the result of a violation under this CHAPTER, the Authority shall direct the person who is in violation to tender to the Federal Government Treasury an amount that the Authority determines to be equal to the gain obtained or loss avoided as a result of the difference between the price at which the violative transaction(s) took place and the price at which the transaction(s) would likely have taken place if the violation had not occurred.

(4) The Authority may also by order direct any person who the Authority has found to have willfully violated any provision of this CHAPTER or any rule or regulation thereunder to tender to the Federal Government by way of penalty an amount not exceeding three times the profit gained or loss avoided as a result of the violation.

(5) Any sum directed to be paid under this CHAPTER shall be recoverable as an arrear of land revenue.

(6) Any person directed by the Authority to tender an amount as compensation and/or penalty under this CHAPTER may appeal the Authority's order to the Company Bench provided for in section 8 of the Companies Ordinance."

Reason: The first substantive change in the sub-section is to delete the requirement that the violation of a provision in this CHAPTER be determined by the Authority to be willful. It is very difficult to prove willfulness particularly in an insider trading case. Persons will have suffered loss and the appearance of fairness of the market will have been undermined whether the violation was willful or not.

The second significant change is that payment be made to persons who suffered because of the violation rather than to the issuer. It is not clear why a violator should tender an amount equal to his illegally obtained gains to the issuer. If the Authority is unable to determine persons who suffered loss, then the gains to the violator are to be paid to the Federal Government Treasury. Alternatively, such payments could be paid into a fund that could be used to enhance the capital market, such as an investor protection fund. The recommendation (item (4)) also requires the Authority to make a finding of a willful violation in order to impose a penalty of up to three times the profit gained or loss avoided. Another recommendation (sub section 6(6)) provides for an appeal. It seems reasonable, whenever the Authority orders payment of compensation or fines, to give an opportunity for the person involved to appeal to a higher authority. If this recommendation is accepted, the appeal could be to the Company Bench or such other entity could depend on the existing practice for appeals in Pakistan. It is also recommended that the Authority consider putting these provisions relating to penalties in CHAPTER V along with other penalty provisions.

#72 Recommendation: It is recommended that the Corporate Law Authority consider adding certain provisions included in the securities laws in other countries which have provided for a number of instances in which a securities transaction may be effected when one of the parties to the transaction has inside information. Such provisions are recommended in numbers 73-75.

Reason: To provide for exemptions in certain controlled situations.

#73 Recommendation: Add a provision to CHAPTER IV-A as follows: "()¹ A company may engage in a securities transaction even though a director, officer or employee has information that is not generally available, and if it were so available would be likely to materially affect the price of those securities, when:

(a) the decision to enter into the transaction is made independently by another person;

(b) the company has a system that insures that such information will not be obtained by the other person; and,

(c) the other person does not know of the existence of such information."

Reason: Such an arrangement protects against the misuse of material non-public information that may be available to one part of a company in its normal business operations, but does not prohibit another part of the company that does not have access to the material non-public information from having transactions in the securities that could be affected by knowledge of the non-public information.

#74 Recommendation: Add a provision to CHAPTER IV-A as follows: "() A company may engage in transactions involving the securities of another company even though a director, officer or agent of the company, in the performance of his duties with the company, has received information that is not generally available and if it were available would be likely to materially affect the price of such securities when the information relates only to the proposed transactions by the company in securities of the other company."

¹Refer to Recommendation #61.

SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS

Reason: This makes it possible for a company to engage in transactions in another company's securities even though it is aware of such proposed transactions, and if the general public were aware of such proposed transactions it would likely have a material effect on the price of such securities.

#75 Recommendation: Add a provision to CHAPTER IV-A as follows: "() A broker or dealer who has information about a company that is generally not available and if it were available would be likely to materially affect the price of the company's securities, may engage in a transaction in such securities, if:

(a) the broker or dealer enters into the transaction as an agent for another person in accordance with specific instructions from that person; and,

(b) the broker or dealer has not communicated the information referred to above or given any advice to the other person with respect to the transaction."

Reason: This makes it possible for a broker or dealer who may have material information about a company that has not been made generally available to engage in normal business activities with respect to transactions in securities of that company as long as he does not communicate any of the information to his client, he does not recommend or give any advice to the client with respect to the desirability of trading in the securities and he acts solely as an agent in the transaction. The decision on whether to add such a provision should be based on the Authority's view whether it would lead to abuses because it could not be properly enforced.

#76 Recommendation: Amend proposed section 21(1) to read as follows: "The Authority may, on its own motion or at the request of any person, by order in writing, cause an inquiry to be made by any person appointed in this behalf into the securities related activities of any person over which the Authority has regulatory jurisdiction pursuant to this Ordinance or any other ordinance or law."

Reason: The Authority should have the power to investigate or cause an inquiry to be made into the securities activities of any person over which the Authority has jurisdiction either on its own motion or at the request of any person. It is not meaningful to have provisions relating to required percentages of the holders of equity securities, or members of an exchange or any other requirements that must be met for the Authority to cause an inquiry to be made when it can cause such an inquiry on its own motion for any reason it deems appropriate. (This would likely require a conforming change in the Companies Ordinance).

- #77 Recommendation:** Amend proposed section 21(2) to read as follows: "Where an enquiry under subsection (1) has been undertaken every person who has information relating to or having a bearing on the subject matter of the enquiry shall furnish such information as the person conducting the enquiry may require."

Reason: The Authority should have the power to obtain any information that is relevant to an enquiry from any person.

- #78 Recommendation:** Amend section 23(1) by deleting the remaining language after the word "consummated" on the next to the last line and inserting in its place "and for any damages suffered".

Reason: A person who has been adversely affected by a contract made in contravention of any provisions of the Ordinance or any rule or regulation made thereunder should be able to sue for damages whether or not rescission is possible.

- #79 Recommendation:** Amend section 23(3) by replacing the word "of" on line one with the word "or".

Reason: Typographical error.

- #80 Recommendation:** Amend section 23(3) by inserting "fulfilled all of the duties of his position or profession with diligence".

Reason: In some cases, there is a duty to know and to act in a prescribed manner. Ignorance or negligence should not be a means by which a person is able to avoid liability.

#81 *Recommendation:* Amend section 23(4) by inserting after the word "action" on the last line, the following: "and had appropriate supervisory procedures over the person committing the act or acts giving rise to the cause of action".

Reason: In order to avoid liability for the acts of controlled persons, control persons must not only act in good faith and not directly or indirectly induce the violative acts but must also establish and enforce appropriate supervisory procedures against violations.

#82 *Recommendation:* Amend section 23(6) by inserting after the word "action" on the last line, the following: ",or, to the extent permitted by the statute of limitations, one year after the discovery of the cause of action, which ever is later".

Reason: There are instances when violative activity is not found within three years. Within the statute of limitations on court actions, persons should be given a reasonable amount of time after discovery to seek a remedy.

#83 *Recommendation:* Amend section 24(2) by inserting after the word "Knowledge" on line four the following: "when he exercised due diligence in his duties and had no responsibility to know" and inserting the word "he" in place of the word "the" on that same line.

Reason: Certain company officials have a responsibility to be aware of corporate conduct. The lack of knowledge by an official who should have known, should not be available as a defense against responsibility for the offense. The other change is to correct a typographical error.

#84 *Recommendation:* Amend proposed section 26(1) by deleting the words "powers of" on line three and inserting after the word "Authority" on line seven, "on its own motion or". It is also recommended that there an opportunity to appeal the decision of the Authority to a court.

*SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS*

Reason: The first recommended change is to correct a typographical error. The second recommendation is to permit the Authority to override a decision made by any officer exercising the powers of the Authority. The third recommendation to provide an opportunity for an appeal to a court of law is generally provided to assure fairness in cases where administrative agencies have the power to impose severe sanctions on persons under their jurisdiction.

#85 Recommendation: Amend proposed section 26(2) to provide for an appeal to a court as recommended in section 26(1).

Reason: Same as for number 84.

#86 Recommendation: Amend proposed Section 27 to replace "Federal Government" with "Authority", or amend the provision to specify to whom the advice is given and to assure that the advisory committee has no review function or authority to interfere with the administration of the Ordinance by the Authority.

Reason: One of the major problems with the development of the capital market in many countries is the diffusion of authority and the ability of advisory committees to become actively involved in day to day administration of the law or acting as a review body for decisions made by the agency responsible for facilitating the development and monitoring the activities of persons in the capital market.

#87 Recommendation: Amend Section 31(1) by deleting the words "of a certificate" in line 2; on line 3, replace the word "or" with a comma; and after the word "bond" insert "or any other security regulated under this Ordinance, whether by certificate transfer, book entry, or otherwise, through an exchange member,".

Add a new subsection (2) as follows: (2) Stock Exchange members are responsible to assure that their clients receive legal ownership of securities for which they have given lawful consideration and lawful consideration for which they have given legitimate securities"; renumber existing subsection "(2)" as "(3)" and insert "subject to subsection (1) and (2)" at the beginning of the subsection.

On the seventh line, replace the word "its" with "the" and delete the word "listed", and insert "traded on an exchange" after the word "securities".

*SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS*

Reason: To require persons acting as brokers or dealers to be responsible for the authenticity of securities transactions for their clients. In any case where a client engages in a transaction to buy or sell a security, the broker or dealer must assure that his client receives lawful consideration for legitimate securities sold or legitimate securities for lawful consideration paid regardless of any problems experienced by the broker or dealer on the exchange or in settlement of the transaction. The proposed amendment also covers unlisted as well as listed securities, purchased with lawful consideration through an exchange, that are transferred by book entry.

#88 Recommendation: Section 32 should be amended by inserting the words "by the Authority" after the word "prescribed" on the last line. Also, although this very broad general authority may be sufficient, it would be desirable to have specific provisions in the Ordinance with respect to the registration or licensing investment advisors and investment companies and the types of requirements imposed on such persons for the protection of investors. The Securities and Exchange Ordinance should be amended to include provisions dealing with the registration and operations of investment companies and investment advisers.

Reason: Clarification and greater specificity in the Ordinance. These matters are presently regulated only in Investment Companies and Investment Advisers Rules, 1971. There is an inconsistency in having provisions relating to some persons in the Ordinance and others only in rules. The basic provisions included in the Investment Companies and Investment Advisers Rules should be incorporated into the Ordinance.

#89 Recommendation: Section 34(2)(ix) refers to the procedure for registration of an issuer. If this refers to registration in order to offer securities to the public, the provision should be deleted. If it refers to listing or approval of trading on an exchange it should be amended by replacing the word "registration" with "listing or trading of the securities".

Reason: The requirements for offering securities to the public are generally established by a government agency, which also is responsible to monitor and enforce the requirements. Exchanges are generally responsible for activities on their own market. There are instances in which both the government agency and the exchange approve both the offering documents and the listing of securities on an exchange. This is unnecessary duplication and is unnecessarily time consuming and expensive. The proposed amendment also provides for an exchange to regulate the trading of unlisted securities by its members.

#90 Recommendation: Amend section 34(2)(xvii) to provide that the exchange could give guidelines with respect to minimum commissions for transactions on the exchange but that each broker or dealer is free to determine commissions and other charges to his customers. If the Authority determines that it would be in the interest of the capital market and investors to make such a change, the following language is proposed:

"(xvii) guidelines regarding suggested brokerage commission rates and other charges by members, but members must be permitted to determine their own charges subject to any limitations that may be set by the Authority or set by an exchange with approval by the Authority, on the determination, after public hearings, that such limitation is necessary to assure competition in the capital market or for the protection of investors."

Reason: Although this is a matter that must be decided depending on the viability of the institutions in Pakistan, the goal should be to provide for free competition among brokers and dealers, as is the trend in other markets.

#91 Recommendation: The Securities and Exchange Ordinance should be amended to include provisions covering requirements for the registration and operations of brokers and dealers.

Reason: The Securities and Exchange Ordinance and the proposed provisions that have been reviewed cover the registration of stock exchanges, securities depositories, asset management companies, underwriters, registrars, balloters and credit agencies. Missing from this list are brokers and dealers who are some of the most important persons in a securities market. Such persons, if they are members, are presently regulated in rules 3, 4 and 5 of Securities and Exchange Rules, 1971, which deal with qualifications for membership of and admission into a stock exchange. It would be more appropriate if such rules were incorporated into the Securities and Exchange Ordinance and applied to brokers and dealers whether or not they are members of an exchange. Brokers and dealers often perform the function of underwriting securities offerings in the primary market or are sales agents in such underwritings independent of any activities they may have in the exchange market, which is a secondary market trading securities that have already been issued. Exchanges could then establish their own standards for membership which might exceed those established by the Ordinance or by rules under the Ordinance.

#92 Recommendation: The Securities and Exchange Ordinance should provide for an annual inspection of exchange members and every person which is licensed or registered by the Authority. Such inspections for stock exchange members should be performed by the stock exchange, with a few inspections by the Authority to monitor exchange inspections. Other persons should be inspected annually by the Authority or by someone authorized by the Authority for such purpose. There should also be "for cause" inspections by the Authority or an exchange whenever there is reason to believe that one is needed to properly monitor and enforce provisions of the Ordinance and rules and regulations thereunder, or exchange rules.

Reason: The Authority needs to establish mechanisms to assure compliance with the Ordinance and its rules and regulations.

#93 Recommendation: The introductory statement to The Securities and Exchange Rules, 1971, refers to the Securities and Exchange Authority. It is understood that this was the agency responsible for the administration of the Securities and Exchange Ordinance before it was transferred to the Corporate Law Authority. If that is correct, there should be a footnote to that effect.

Reason: Clarify meaning of Securities and Exchange Authority.

#94 Recommendation: Rule 2(d) defines "net capital" to include "money receivable within a period of twelve months from the date of the balance sheet and such other assets". The purpose of a net capital requirement is to assure that there are assets readily available to meet the contractual obligations of brokers and dealers in their business activities for the protection of their customers, other brokers and dealers with whom they trade and any exchange of which they may be members. It is recommended that the definition of net capital be reconsidered to limit assets that can be included in the computation to those that are immediately available. If the Authority decides to consider this recommendation there are many examples in other markets that can be used.

Reason: The definition as now provided does not assure that assets will be readily available as needed.

#95 Recommendation: In Rule 2(e), "officer" is defined differently than in the Ordinance or in the proposed definition for the Ordinance. These definitions both apply to issuers and should be the same.

Reason: Simplify.

#96 Recommendation: Amend Rule 3(a)(vi) by replacing the words "not less than" on the second line with "at least".

Reason: To avoid a double negative in the sentence.

#97 Recommendation: That in Rule 3(b), the net capital of exchange members not be tied to the activity of the exchange but to their own activity. The amounts to be required and the way net capital is computed also need to be reconsidered.

Reason: Net capital needs for exchange members relate to their own activity, not the total activity of the exchange.

#98 Recommendation: Amend Rule 3(b)(i) to replace the word "crore" with "10 million" so that it would be generally understood.

*SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS*

Reason: Improves understanding of the rule.

#99 Recommendation: That the first proviso in Rule 3(b)(ii) be amended to maintain the same relationship as it had before (ii) was increased from fifteen to seventy five thousand rupees. The second proviso should also be amended to indicate the change made in (ii) in 1985.

Reason: Consistency within the rule.

#100 Recommendation: Rule 3 needs to be amended to clarify that in fact members of a stock exchange can be individuals or companies as clarified in discussions in Washington, D.C., Karachi and Islamabad. Rule 3 seems to infer that they can only be individuals in 3(a) which refers to age, soundness of mind, etc., and also in the second proviso to (b)(ii) which refers to "the number of such partners of the firm as are members of the stock exchange". Paragraphs (c), (d) and (e) also infer that members must be individuals. On the other hand, the Form Of Application For Registration Of A Stock Exchange Under Section 5 of the Securities and Exchange Ordinance, 1969, Part II items 12 and 13 indicate that it is possible for firms to become members. This Rule needs new provisions applying to corporate members of an exchange.

Reason: Clarify that members can be both individuals and other persons and provide rules for such other persons.

#101 Recommendation: Corporations should be permitted and encouraged to be members of Exchanges. Existing members should be encouraged to reorganize into corporations.

Reason: Corporations are more permanent, can be required to be more open in accounting for and disclosing their activities to the public, can be required to have greater amounts of capital and net capital and by making their officers and directors liable for acts of the corporation can be held to a high level of responsibility. Some countries permit only corporations to be members of exchanges.

#102 Recommendation: Amend Rule 4(3)(a) by inserting "a" after the word "is".

Reason: Edit.

#103 Recommendation: Rule 5(1) should be amended by adding the following at the end: "Such financial statements shall be audited by an independent auditor who is a chartered accountant."

Reason: Member financial statements should be audited and the auditors should be independent of the member to enhance credibility of the auditor and the audit.

#104 Recommendation: The CLA should have authority to establish accounting and auditing standards, including certification of financial statements, that supersede those established by the accounting profession if it is deemed necessary for the protection of investors and the public. Section 234 of the Companies Ordinance appears to grant such authority to the CLA for listed companies. Such authority should be expanded to cover all companies including banks and insurance companies that have sold their own shares in a public offering or are traded on an exchange. Any such standards should be established in consultation with qualified private sector accountants and any standards for insurance companies or banks should be established in coordination with the primary regulator of such companies and in accordance with existing law.

Reason: To enhance the status of the accounting profession, to improve accounting practices of public companies and to increase confidence in audits.

#105 Recommendation: Amend Rule 10(2) on line two by inserting the word "independent" before the word "auditor".

Reason: To assure that the auditor is independent of the exchange.

#106 Recommendation: The Ordinance should be amended with a new provision establishing liability for auditors in instances where investors have been harmed in reliance on financial statements or other documents that have been audited or reviewed and approved by them.

Reason: To upgrade the performance of auditors and improve the capital market.

SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS

#107 Recommendation: Delete Rule 11 and renumber 11-A as 11.

Reason: Exchanges should deal with and provide application forms for listing. These forms would be reviewed by the Authority and either approved or disapproved as with any other rule or form of the exchange, before they are used by the exchange.

#108 Recommendation: Amend Form 1 by replacing the word "FROM" in the heading with the word "FORM" and deleting the word "spare" on the first line of item 2.

Reason: Edits.

#109 Recommendation: Amend FORM I PART I item 4 by replacing the word "may" on the next to the last line with the word "shall".

Reason: The Authority should require that the basis of organization be stated.

#110 Recommendation: In FORM 1, Applicants for registration of a stock exchange are asked various questions, but there is no indication that the items about which questions are asked are required. It is recommended that the Authority establish as requirements for approval of an exchange application positive responses to items 16, 17, 23, 25, 26, 27, 28, 29, 30, 31 and 32.

Reason: Every exchange should be required to have these items.

#111 Recommendation: Amend item 22 by inserting the word "recommended" before the word "scale" in line one.

Reason: Exchanges should not be permitted to establish prices charged by their members.

#112 Recommendation: FORM II should be amended by deleting the word "FROM" and inserting the word "FORM".

Reason: Typographical error.

#113 Recommendation: It has already been recommended that the basic provisions of the Investment Companies and Investment Advisers Rules, 1971 should be incorporated into the Securities and Exchange Ordinance or some other ordinance.

In response to requests from the CIA to suggest what provisions of the Investment Companies and Investment Advisers Rules, 1971 should be included in the Securities and Exchange Ordinance, the following is recommended:

- a. The Table of Contents of the Ordinance should be changed to include a new chapter or chapters relating to investment companies and investment advisers.
- b. Definitions in the 1971 Rules that are not already in the Ordinance should be added.
- c. The following Investment Companies and Investment Advisers rules should be included as sections in the Ordinance with changes in language as suggested and with numbering changed to fit into the Ordinance :

(A strikeover indicates language to be deleted and language within brackets is to be added.)

3. **No investment company to commence business without registration.** - No company shall commence business as an investment company unless it is registered with the Authority under ~~these rules~~ [this Ordinance].
4. **Eligibility for registration.** - A company proposing to commence business as an investment company shall be eligible for registration ~~under these rules~~ if it fulfills or complies with the following conditions or requirements ~~;~~ namely:
 - (a) ~~that such~~ [the company] is registered as a public limited company under the Companies Act, 1913 (VII of 1913);
 - (b) ~~that it~~ [the company] is to function as a closed-end investment company with a capital of not less than five million rupees;
 - (c) ~~that no~~ director, officer or employee of ~~such~~ [the] company has been convicted of fraud or breach of trust;

SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS

- (d) ~~that~~ no director, officer or employee of ~~such~~ [the] company has been adjudicated as insolvent or has suspended payment or has compounded with his creditors;
- (e) ~~that~~ the promoters of ~~such~~ [the] company are, in the opinion of the Authority, persons of means and integrity and have special knowledge of matters which the company may have to deal with as an investment company;
- [(f) any other requirements prescribed in rules or regulations by the Authority in the public interest.]

5. **Registration -**

(1) Any company which [fulfills requirements] for registration ~~under rule~~ [in Article] 4 may make an application in ~~Form 1~~ to the [such form and manner - as the] Authority [may prescribe] for registration ~~under these rules.~~

~~(2) An applicant under sub rule (1) shall, besides the other documents referred to in Form I, be accompanied by an undertaking by the investment advisor of the company that the investment advisor will at all times hold or beneficially own equity securities of the company of an amount which is neither more nor less than ten per cent of the paid-up value of such securities.~~

~~(3)~~[(2)] The Authority, if it is satisfied after such enquiry and after obtaining such further information as it may consider necessary: -

- (i) that the applicant is eligible for registration; and
- (ii) that it would be in the interest of the capital market so to do, may grant a certificate of registration to such company ~~in Form II.~~

6. **Investment policy and diversification. -**

(1) The investment policy of an investment company shall be clearly and concisely stated in its Memorandum and Articles of Association and the public offer for the sale of its securities.

(2) An investment company shall not enter into any transaction in any security other than a security which is listed [or traded] on a stock exchange or for the listing [or trading] of which an application has been made to a stock exchange.

- (3) The investment of an investment company in any other company shall not, at any time, exceed an amount equal to ten per cent of paid-up capital of the investment company or an amount sufficient to acquire ten per cent of any class of the securities of that other company.
8. **Prohibitions.**- No investment company shall -
- (a) merge with, acquire or takeover any other investment company, unless it has obtained the prior approval of the Authority in writing to the scheme of such merger, acquisition or takeover;
 - (b) pledge any of the securities held or beneficially owned by it;
 - (c) make a loan or advance of money to any person except in connection with the normal business of the investment company;
 - (d) effect a short sale in any security;
 - (e) purchase any security in a forward contract;
 - (f) purchase any security on margin;
 - (g) participate in a joint account with others in any transaction;
 - (h) apply any part of its assets to real estate, commodities or commodities contracts;
 - (i) acquire any security of which another investment company is the issuer;
 - (j) make an investment in a company which has the effect of vesting the management, or control over the affairs, of such company in the investment company;
 - ~~(k) employ as a broker, directly or indirectly, any director, officer or employee of the investment company or its investment advisor or any director, officer or employee thereof;~~
 - ~~(l)~~[(k)] issue at any time, without the prior approval of the Authority in writing, a senior security which is either stock or represents indebtedness;
 - [(l) act in contravention of any other rule or regulation that the Authority prescribes in the public interest.]
9. **Transactions with directors, etc.**- No investment company shall without the prior approval of the Authority in writing, purchase from, or sell to, any director, officer or employee of the investment company or of the investment adviser thereof or a person who beneficially owns ten per cent or more of the equity securities of the company or of its investment adviser.

*SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS*

10. Appointment of investment adviser. -

(1) No investment company shall appoint any person as an investment adviser except by a contract in writing the terms of which have been previously approved by the Authority in writing.

~~(2) The contract shall, initially or on renewal, be valid for a period not exceeding [ten] years and shall not be renewed or modified unless such renewal or modification has been authorized by the shareholders of the investment company in general meeting and approved by the authority.~~

~~(2A) If the contract, as initially entered into or as renewed, is terminated within the first five years of the contract, and not later, compensation for each year of the unexpired period of the contract shall be paid to the investment adviser at the rate of one fourth of his annual average remuneration during the expired period of the contract.~~

~~*Explanation.* Where the expired period is a fraction of a year or includes a fraction of a year, the remuneration for the fraction of the year shall be converted pro-rata into full years' remuneration and then the average annual remuneration shall be worked out to determine the compensation payable for the unexpired period of the contract; and~~

~~(3)~~**(2)** The contract shall, among other things, provide that the investment adviser shall bear all expenditure in respect of the secretariat and office space of the company and professional management, including all administrative, accounting and legal services, and that the fee payable to the auditors and the custodian, taxes on income of the company, brokerage, stamp duty and any other duties or taxes connected with the sale or purchase of securities shall be payable by the investment company.

12. Power of Authority to give certain directions.- The Authority, if it is satisfied that it is necessary or expedient so to do in the public interest or of the capital market in Pakistan, may, by order in writing, direct an investment company, within such time as may be specified in the order.-

- (a) to disinvest the whole or such part of the investment portfolio as may be so specified;
- (b) to refrain from investing or disinvesting such securities as may be so specified;

*SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS*

- (c) to co-opt one or more persons nominated by the Authority as members of the board of directors of the company with the same status, powers and rights as the other members of the board.
14. **Publication of portfolio securities.**- Every investment company shall cause to be published, in the Bulletin or other such publication of the stock exchange on which its securities are listed, the names and the value of its portfolio securities as at the end of each half-year.
15. **Custody of securities.**- (1) Every investment company shall place and maintain the securities owned or held by the company with a custodian appointed by it with the prior approval in writing of the Authority.
16. [Every investment company shall maintain such books of accounts and other records for such period of time as the Authority shall by rule or regulation require as appropriate to depict a true and fair picture of its state of affairs.]
17. [Every investment company shall transmit to its shareholders and to the Authority such periodical reports in such form and with such content as the Authority may prescribe.]
18. **No person to commence business [as an investment adviser] without registration.**- No person shall commence business as an investment adviser unless such person is registered with the Authority under ~~these rules~~ [this Ordinance].
19. **Eligibility for registration.**- Any person proposing to commence business as an investment adviser shall be eligible for registration ~~under these rules~~ if it fulfills or complies with ~~following~~[such] conditions or requirements, ~~namely~~ [as the Authority may prescribe by rule or regulation in the public interest].
- (a) ~~that such person is registered as a company under the Companies Act, 1913 (VII of 1913);~~
- (b) ~~that no director, officer or employee of such company has been convicted of fraud or breach of trust;~~
- (c) ~~that no director, officer or employee of such company has been adjudicate as insolvent or has suspended payment or has compounded with his creditors;~~

*SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS*

- ~~(d) that the directors of such company are, to the satisfaction of the Authority, persons of means and integrity and have special knowledge of the matters which the company may have to deal with as an investment advisor.~~
20. **Registration.**- (1) Any person who is eligible for registration under rule 19 [fulfills the requirements established under Article 14] may make an application in Form III [in such form and manner as] the Authority may prescribe for registration under these rules as an investment adviser.
- ~~(2) An application under sub rule (1) shall, beside the other document referred to in Form III, be accompanied by an undertaking that the company will at all times maintain a net capital balance in the capital account of a amount which is not less than one lac rupees.~~
- ~~(3) [(2)] The Authority, if it is satisfied after such enquiry and after obtaining such further information as it may consider necessary,-~~
- ~~(i) that the applicant is eligible for registration; and~~
- ~~(ii) that if would be in the interest of the capital market so to do, may grant a certificate of registration of registration to such person in Form IV.~~
21. **Maintenance of books of accounts etc.**- (1) Every investment adviser shall maintain such books of accounts and other records as shall [for such period of time as the Authority shall by rule or regulation require as appropriate to] depict a true and fair picture of its state of affairs.
22. **Submission of annual report[s] to Authority.**- Every investment adviser shall submit to the Authority an Annual report, together with a balance sheet and income and expenditure account and the auditor's report, within six months of the close of its year of account. [such reports in such form and with such content as the Authority may prescribe.]
24. **Cancellation of registration.**- (1) Where the Authority is of the opinion that and investment adviser has contravened any provision, or has otherwise failed to comply with any requirement, of the Ordinance or of any rule of direction made or given thereunder, the Authority may, if it considers necessary in the public interest so to do by order in writing,-
- (a) cancel the registration of the investment adviser; or

*SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS*

(b) remove the investment adviser from the office of investment adviser of an investment company;

Provided that no such order shall be made except after giving the investment adviser an opportunity of being heard.

(2) An investment adviser removed from office under clause (b) of sub-rule (1) shall not be entitled to or be paid any compensation or damages for loss of termination of office.

(3) An investment adviser of an investment company who is removed from office under clause (b) of sub-rule (1) shall not be appointed to such office of that company until after the expiration of a period of five years from the date of such removal.

(4) Where the investment adviser of an investment company is removed from that office under clause (b) or sub-rule (1) no director or officer of the investment adviser shall hold the office of director of the investment company or any other office connected with the conduct or management of the affairs of the investment company, until after the expiration of a period of five years from the date of such removal.

(5) Where the investment adviser is removed from office under clause (b) of sub-rule (1) the Authority may, by order in writing, appoint a person, hereinafter referred to as the Administrator, to manage the affairs of the investment company subject to such terms and conditions as may be specified in the order.

(6) The Administrator shall receive such remuneration from the investment company as the Authority may determine.

(7) The management of affairs of the investment company shall, on and from the date of appointment of the Administrator, vest in him.

(8) If at any time it appears to the Authority that the purpose of the order appointing the Administrator has been fulfilled, it may permit the investment company to appoint another person to the office of investment adviser; and, on the appointment of such investment adviser, the Administrator shall cease to hold office.

*SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS*

#114 Recommendation: Amend the Investment Company and Investment Adviser's Rules, 1971 to include the remaining existing rules as well as portions stricken out of the rules proposed to be inserted in the Ordinance that the Authority desires to retain with the following recommendations:

- a. The Authority should consider reviewing the language in 8(k) prohibiting an investment company from using a broker that is affiliated with its investment adviser. In many countries this relationship is regulated rather than prohibited.
- b. The Authority should consider whether contracts between an investment company and an investment adviser should be permitted to last for ten years as provided in rule 10(2). Such contracts are usually restricted to much shorter periods.
- c. It is unusual for a government agency to stipulate compensation to be paid to one party, to a contract in the event of termination, as provided in rule 10(2A)
- d. It is unusual to require that only companies may register as investment adviser's as provided in rule 19(a).
- e. Rule 23 could be eliminated if a general provision regarding enquiries is included in the Ordinance as recommended earlier.
- f. A provision should be added to the investment company and investment adviser regulations regarding renewal of registration annually to conform to proposed new 11(b), 12(b) and 14(b).

Reason: All registered or licensed persons should be treated similarly with respect to annual renewals; if required.

#115 Recommendation: New Provisions relating to the registration of underwriters, balloters, depositories, credit rating agencies and any other entities registered by the Authority should contain a provision similar to section 4 regarding stock exchange registration.

Reason: To make it clear the Authority may establish such requirements as it determines to be in the public interest for registration of such persons.

*SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS*

#116 Recommendation: Proposed section 32(a) regarding asset management companies should be expanded to include the basic provisions of the proposed Asset Management Companies Rules, 1992 (not part of this review) in the Ordinance instead of in rules.

Reason: All major categories of professional capital market participants should be included similarly in the Ordinance.

#117 Recommendation: The Authority should issue a rule requiring the approval of independent shareholders for any company actions in which directors, officers or controlling shareholders have a conflict of interest.

Reason: Shareholders without a conflict of interest should be able to protect themselves from actions in which insiders have a conflict of interest. Appendix F has an example of a conflict of interest rule that could be issued by the Authority.

#118 Recommendation: The Authority should issue a rule requiring that exchanges have a committee in which a majority of the members are not brokers or dealers to handle customer complaints and any other matters in which broker or dealer members may have a conflict of interest.

Reason: To assure that such matters are handled objectively.

#119 Recommendation: The Authority should issue a rule requiring that exchange members and other brokers and dealers have liability insurance or a standby line of credit from a bank to protect customers, other brokers and dealers, and exchanges in the event the broker or dealer is unable to fulfill its contractual commitments.

Reason: Included in the recommendation.

#120 Recommendation: Automation of trading and settlement on Karachi Stock Exchange should be a high priority.

*SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS*

Reason: Existing trading practices are not efficient, do not require members to expose their customers' orders to orders of other members and do not require execution of orders on a time, price priority basis. Thus investors are not assured best execution of their buy and sell orders. Moreover, brokerage firms say they are restrained from developing a retail marketing program because of exchange inefficiency.

#121 Recommendation: All exchanges should be required to assure that their members are complying with all of the provisions of the Ordinances, and rules issued by the Authority as well as their own rules. Independent members on a compliance committee and an independent Chief Executive could help correct this situation.

Reason: Enforcement by the exchanges and the Authority appears to be minimal. Comments made by those interviewed support this conclusion. This needs to be corrected.

#122 Recommendation: There should be no government involvement in price setting for offerings of securities to the public by private sector companies with an operating history.

Reason: Such government decision making interferes with market forces in setting prices.

#123 Recommendation: Commercial paper, zero coupon and convertible bonds should be developed by the private sector. Removal of the stamp duty on the transfer of such securities would be an important step to facilitate such development.

Reason: This would provide capital market alternatives to bank loans as a source of capital.

#124 Recommendation: Any special treatment given to the National Investment Trust and the Investment Company of Pakistan should be phased out and they should be subjected to the same regulatory requirements as other similar investment institutions.

SECURITIES AND EXCHANGE ORDINANCE, PAKISTAN
REVIEW AND RECOMMENDATIONS

Reason: Private sector investment companies and asset management companies should not be at a competitive disadvantage as a result of government rules, regulations and priorities.

#125 Recommendation: Fees for underwriting services should not be controlled by the government.

Reason: The existing maximum, limits the ability of underwriters to take some issues. It also acts as a standard which underwriters charge in some situations where they would be willing to provide services for less.

#126 Recommendation: Regulations should be issued to permit but control margin accounts, short selling and forward sales.

Reason: To facilitate greater efficiency in the market.

#127 Recommendation: A rule should be issued prohibiting underwriters and persons affiliated with them from directly or indirectly purchasing securities for their own account in an oversubscribed public offering. At the same time such persons should be excluded from section 224 of the Companies Ordinance for shares purchased in an underwriting.

Reason: These changes would assure that such shares are really offered to the public investors, but if underwriters are required to take up shares because an offering is not otherwise fully subscribed, they would be able to retain the benefit of any rise as well as suffer any loss resulting from a drop in the market price.

APPENDIX A:
SECURITIES AND EXCHANGE MANUAL
(RECEIVED FROM THE CLA)

(Hizbullah Siddiqui)
Assistant Chief
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GOVERNMENT OF PAKISTAN
MINISTRY OF FINANCE
CORPORATE LAW AUTHORITY



SECURITIES AND EXCHANGE
MANUAL

CORRECTED UPTO ~~6TH FEBRUARY, 1984~~

SECURITIES AND EXCHANGE MANUAL

CONTENTS

| S. No. | SHORT TITLE OR SUBJECT | PAGES |
|--------|---|--|
| 1. | The Securities and Exchange Ordinance, 1969 | 1—18 |
| 2. | The Securities and Exchange Rules, 1971 | 19—63 |
| 3. | The Investment Companies and Investment Advisers Rules, | 65—83 |
| 4. | Statutory Notifications | N 1—2 |
| 5. | Circulars | C—BO 1—9 C—AH 1—2 C—DR 1—5 C—B 1—6 C—M 1—3 |

SECURITIES AND EXCHANGE ORDINANCE, 1969

ORDINANCE NO. XVII OF 1969

CONTENTS

CHAPTER I

PRELIMINARY

| SECTIONS | PAGES |
|---|-------|
| 1. Short title, extent and commencement | 1 |
| 2. Definitions | 1-4 |

CHAPTER II

REGISTRATION AND REGULATION OF STOCK EXCHANGES

| | |
|--|---|
| 3. No Stock Exchange to operate without registration | 4 |
| 4. Eligibility for registration | 4 |
| 5. Registration | 4 |
| 6. Accounts, annual reports, returns etc. | 5 |
| 7. Cancellation of registration, etc | 5 |
| 8. Restriction on dealings in securities | 6 |
| 9. Listing of securities | 6 |
| 10. Compulsory listing of securities | 7 |

CHAPTER III

REGULATION OF ISSUERS

| | |
|--|---|
| 11. Submission of returns | 8 |
| 12. Submission of Statements of beneficial owners of listed equity securities .. | 8 |
| 13. Prohibition of short-selling | 8 |
| 14. Trading by directors, officers and principal shareholders | 8 |
| 15. Regulation of proxies | 9 |

CHAPTER IV

PROHIBITIONS AND RESTRICTIONS

| | |
|---|----|
| 16. Credit, pledging and lending of customers' securities | 9 |
| 17. Prohibiting of fraudulent acts, etc | 9 |
| 18. Prohibition of false statements, etc | 10 |

| SECTIONS | PAGES |
|--|-------|
| 19. Maintenance of secrecy | 10 |
| 20. Prohibitory orders | 10 |
| CHAPTER V | |
| ENQUIRIES, PENALTIES, ORDERS AND APPEALS | |
| 21. Enquiry | 11 |
| 22. Penalty for certain refusal or failure | 12 |
| 23. Civil liabilities | 12—13 |
| 24. Penalty | 14 |
| 25. Cognizance of offence | 14 |
| 26. Revision and review | 14 |
| CHAPTER VI | |
| MISCELLANEOUS | |
| 27. Advisory Committee | 14 |
| 28. Delegation of power | 14 |
| 29. Exemption | 15 |
| 30. Indemnity | 15 |
| 31. Securities acquired in good faith | 15 |
| 32. Regulation of business of investment advisers and investment companies | 15 |
| 33. Power to make rules | 15 |
| 34. Power to make regulations | 16—17 |
| 35. Savings | 18 |

BEST AVAILABLE COPY

SECURITIES AND EXCHANGE ORDINANCE, 1969

ORDINANCE NO. XVII OF 1969

(28th June, 1969)

(As Amended upto 6th February, 1984)

AN

ORDINANCE

To provide for the protection of investors, regulation of markets and dealings in securities

WHEREAS it is expedient to provide for the protection of investors, regulation of markets and dealings in securities and for matters ancillary thereto ;

AND WHEREAS the national interest of Pakistan in relation to the achievement of uniformity requires Central legislation in the matter ;

NOW, THEREFORE, in pursuance of the Proclamation of the 25th day of March, 1969, read with the Provisional Constitution Order, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Securities and Exchange Ordinance, 1969.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "associate" means any partner, employee, officer or director of a member ;

(b) "bank" means a banking company as defined in the Banking Companies Ordinance, 1962 (LXII of 1962) ;

(c) "broker" means any person engaged in the business of effecting transactions in securities for the account of others ;

- (d) "equity security" means any stock or transferable share (preferred or common) or similar security representing ownership; any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; any such warrant or right itself; and such other security as may be prescribed;
- (dd) "free reserves"^{*} for the purpose of an investment company, include any amount which, having been set aside out of the revenue or other surpluses is free in that it is not retained to meet any diminution in value of the assets, specific liability, contingency or commitment of that company known to exist at the date of the balance sheet;
- (e) "investment adviser" includes, person who is, for compensation, engaged in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing or selling securities, but does not include,—
- (i) a bank;
 - (ii) any lawyer, accountant, engineer or teacher whose performance of such services is solely incidental to the practice of his profession;
 - (iii) any broker, jobber, member or associate whose performance of such services is solely incidental to the conduct of his business as a broker, jobber, member or associate and who receives no separate compensation therefor;
 - (iv) the publisher of any newspaper, news magazine, or other publication of general and regular circulation; or
 - (v) the Investment Corporation of Pakistan;
- (f) "investment Company"^{**} means a company engaged principally or wholly in buying and selling securities of other companies and includes a company, not being a holding company, the investment of which in the share capital of other companies at any one time is of an amount equivalent to eighty per cent of the aggregate of its own paid up capital and free reserves, but does not include a bank or an insurance company or a corporation which is a member of a Stock Exchange;

*Added by S&E (Amend) Ord., 1980.

**Substituted by S&E (Amend) Ord., 1980.

- (g) "issuer" means any person who has issued or proposes to issue any security ;
- (h) "jobber": means any person engaged in the business of effecting transactions in securities for his own account, through a broker or otherwise, but does not include any person who trades in securities for his own account, either individually or in some fiduciary capacity, otherwise than as a part of a regular business ;
- (i) "member" means a member of a Stock Exchange ;
- (ii) "Officer"* for the purpose of Chapters III, IV and V, in relation to an issuer, includes managing agents, manager, secretary, accountant or auditor of the issuer ;
- (j) "person" includes a Hindu undivided family, a firm, an association or body of individuals, whether incorporated or not, a company and every other artificial juridical person ;
- (k) "prescribed" means prescribed by rules made under this Ordinance ;
- (l) "security" includes—
- (i) any stock, transferable share, scrip, Modaraba Certificate,** note, debenture, debenture stock, participation term certificate**, bond, investment contract, and pre-organization certificate or subscription, and, in general, any interest or instrument commonly known as a "security" and, any certificate of deposit for, certificate of interest or participation in, temporary or interim certificate for, receipt for, or any warrant or right to subscribe to or purchase, any of the foregoing but does not include currency or any note, draft, bill of exchange or banker's acceptance or any note which has a maturity at the time of issuance of not more than twelve months, exclusive of days of grace, or any renewal thereof whose maturity is likewise limited ;
 - (ii) any Government security as defined in the Securities Act, 1920 (X of 1920) ; and
 - (iii) any bonus entitlement voucher issued by the State Bank of Pakistan in accordance with any scheme announced by the Central Government ;
- (m) "Stock Exchange" means any person who maintains or provides a market place or facilities for bringing together buyers and sellers of securities or for otherwise performing with respect to securities the

*Inserted by S&E (Amend) Ord., 1980.

**Inserted by S&E (Amend) Ord., 1987.

functions commonly performed by a Stock Exchange, as that term is generally understood, and includes such market place and facilities.

*Explanation** :—In clause (1) "Modaraba Certificate" has the same meaning as in the Modaraba Companies and Modarabas (Floatation and Control) Ordinance, 1980 (XXXI of 1980).

CHAPTER II

REGISTRATION AND REGULATION OF STOCK EXCHANGES

3. No Stock Exchange to operate without registration.—No Stock Exchange shall operate or carry on its functions, and no person shall use or utilize, for the purpose of any transaction or dealing in any security, the facilities or services of a Stock Exchange, unless such Stock Exchange is registered under this Ordinance.

4. Eligibility for registration.—(1) Any Stock Exchange which fulfil such conditions or complies with such requirements as may be prescribed to ensure fair dealings and to protect investors shall be eligible for registration under this Ordinance.

(2) The conditions or requirements which may be prescribed for the purposes of sub-section (1) may, among other matters, relate to—

- (a) qualifications for membership and admission, exclusion, suspension, expulsion and re-admission of members thereinto or therefrom ;
- (b) constitution and powers of the governing body and the powers and duties of the office bearers ;
- (c) representation of the Central Government on the governing body of a Stock Exchange or any of its Committees ;
- (d) the manner in which business should be transacted including restrictions on the business of the members ;
- (e) Memorandum and Articles of Association, rules, regulations and by-laws of a Stock Exchange ; and
- (f) the maintenance of accounts, including those of members, and their audit.

5. Registration.—(1) Any Stock Exchange which is eligible for registration under section 4 may, in such form and manner as may be prescribed, apply to the Central Government for registration.

*Added by S&E (Amend) [Ord., 1982.

(2) The Central Government, if it is satisfied, after such inquiry and after obtaining such further information as it may consider necessary,—

(i) that the Stock Exchange is eligible for registration; and

(ii) that it would be in the interest of the trade and also in the public interest to register the Stock Exchange;

may grant a certificate of registration to the Stock Exchange.

(3) No application for registration shall be refused except after giving the applicant an opportunity of being heard:

6. Accounts, annual reports, returns, etc.—(1) Every Stock Exchange and every director, officer and member thereof shall prepare and maintain such books of accounts and other documents in such manner as may be prescribed; and every such book of accounts or document shall be subject to inspection at all reasonable times by any person authorised by the Central Government in this behalf.

(2) Every Stock Exchange shall submit to the Central Government, in such manner and containing such particulars as may be prescribed, an annual report and periodical returns relating to its affairs.

(3) Without prejudice to the provisions of sub-section (1) and sub-section (2), every Stock Exchange and every director, officer or member thereof shall furnish such documents, information or explanation relating to the affairs of the Stock Exchange or, as the case may be, relating to the business on the Stock Exchange of such director, officer or member as the Central Government may, at any time, by order in writing require.

7. Cancellation of registration, etc.—(1) Where the Central Government is of opinion that a Stock Exchange or any member, director or officer of a Stock Exchange has contravened any provision, or has otherwise neglected or failed to comply with any requirement, of this Ordinance, or of any rule, regulation or direction made or given thereunder, the Central Government may, if it considers it necessary for the protection of investors or to ensure fair dealings or fair administration of the Stock Exchange so to do, by order in writing—

(a) suspend for such period as may be specified in the order the transaction of any business on the Stock Exchange;

(b) cancel the registration of the Stock Exchange;

(c) supersede the governing body or other authority of the Stock Exchange;

- (d) remove the director, officer or member from his office in, or membership of, the Stock Exchange;

Provided that no such order shall be made except after giving the governing body or other authority or, as the case may be, the director, officer or member, an opportunity of being heard.

(2) An order made under clause (c) or clause (d) of sub-section (1) may also direct that the functions of the governing body or other authority which has been superseded or of the director or officer who has been removed shall be performed by such authority or person as may be specified therein.

(3) An order under sub-section (1) shall have effect notwithstanding anything contained in any other law for the time being in force or in any Memorandum or Articles of Association;

Provided that no order made under clause (a) or clause (b) of sub-section (1) shall affect the validity of any contract lawfully entered into before the date of such order.

8. Restriction on dealings in securities.—(1) No person shall transact any business in securities on any Stock Exchange unless he is a member thereof.

(2) No business shall be transacted on a Stock Exchange in a security, other than a Government security or a bonus entitlement voucher, which is not listed on such Stock Exchange.

(3) No person shall act as a dealer in a security listed on a Stock Exchange outside such Stock Exchange;

Provided that the prohibition in this sub-section shall not apply to purchase, sale or transfer of any such security by or from the Investment Corporation of Pakistan or the National Investment Trust.

(4) No person other than a member shall act as a broker or a jobber for any security not listed on a Stock Exchange;

Provided that the prohibition in this sub-section shall not apply to discounting of any security evidencing a loan.

9. Listing of securities.—(1) An issuer who intends to get any of his securities listed on a Stock Exchange shall submit an application therefor, in the prescribed form to the Stock Exchange and submit a copy of the application to the Central Government.

(2) Upon receipt of an application under sub-section (1), the Stock Exchange may, if it is satisfied after making such inquiry as it may consider necessary that the applicant fulfils the conditions prescribed in this behalf, list the security for dealings on the Stock Exchange.

(3) Where a Stock Exchange refuses to list a security, the Central Government may, either on petition by the application made within the prescribed time or on its own motion, direct the Stock Exchange to list the security.

(4) Where after the listing of a security, the Central Government or Stock Exchange finds that the application is deficient in any material respect or that the issuer has failed to comply with any prescribed condition or requirement and that the continued listing of the security would not be in the public interest, the Central Government or, as the case may be, the Stock Exchange may, by order, either require the issuer to correct the deficiency or comply with the prescribed condition or requirement within the time specified in the order or revoke the listing.

(5) A listed security may be delisted on application by the issuer to the Stock Exchange which may deny the application or grant it on such conditions as appear necessary or appropriate for the protection of investors.

(6) Where a Stock Exchange refuses to delist a security, the Central Government may, on petition by the applicant made within the prescribed time, direct the Stock Exchange to delist the security.

(7) The Central Government or a Stock Exchange may, if it considers it to be in the interest of trade or in the public interest so to do, suspend by order recording the reasons, trading in any listed security.

~~X₅~~ (8) An order under sub-section (7) shall remain in force for a period of ~~fourteen~~ ^{sixty} days which the Central Government or, as the case may be, the Stock Exchange may extend for further periods not exceeding ~~fourteen~~ ^{sixty} days at any time.

(9) No application submitted under sub-section (1) shall be refused, and no listing shall be revoked under sub-section (4), unless the issuer has been given an opportunity of being heard.

10. **Compulsory listing of securities.**—Where the Central Government, having regard to the nature of, and the dealings in, any security, is of the opinion that it is necessary or expedient in the public interest so to do, it may, after consulting a Stock Exchange and giving the issuer of such security an opportunity of being heard, direct the Stock Exchange to list the security.

X. substituted by F. 17(1)/84 - Pub dated - 8-10-84 (C.O. 1984)

REGULATION OF ISSUERS

11. Submission of returns.—(1) An issuer of a listed security shall furnish to the Stock Exchange, to the security holders and to the Central Government an annual report of its affairs and such statements and other reports as may be prescribed.

(2) Without prejudice to the provisions of sub-section (1), an issuer of a listed security shall furnish to the Central Government, [the Stock Exchange and the shareholders] such other documents, information or explanation relating to its affairs as the Central Government may, at any time, by order in writing, require.

12. Submission of statements of beneficial owners of listed equity securities.—Every director or officer of an issuer who is or has been the beneficial owner of any class of its listed equity securities and every person who is directly or indirectly the beneficial owner of more than ten per cent of any class of such securities shall submit to the Central Government such returns pertaining to the beneficial ownership of such securities in such form and at such times or at such intervals as may be prescribed.

13. Prohibition of short-selling.—No director or officer of an issuer of a listed equity security and no person who is directly or indirectly the beneficial owner of not less than ten per cent of such securities shall practise directly or indirectly short-selling such securities.

14. Trading by directors, officers and principal shareholders.—(1) Where any director or officer of an issuer of a listed equity security or any person who is directly or indirectly the beneficial owner of not less than ten per cent of such securities makes any gain by the purchase and sale, or the sale and purchase, of any such security within a period of less than six months, such director or officer or beneficial owner shall make a report and tender the amount of such gain to the issuer;

Provided that nothing in this sub-section shall apply to a security acquired in good faith in satisfaction of a debt previously contracted.

(2) Where a director, officer or beneficial owner fails or neglects to tender, or the issuer fails to recover, any such gain as is mentioned in sub-section (1) within a period of six months after its accrual, or within sixty days of a demand therefor, whichever is later, such gain shall vest in the Central Government which may recover the same as an arrear of land revenue.

[] Inserted by S&E (Amend) Ord., 1980.

X Repealed by F-17(1)/84 - Pub dated 8-10-84
(Companies Ord 1984)

66

15. **Regulation of proxies.**—Notwithstanding anything contained in the Companies Act, 1913 (VII of 1913), or in the Memorandum or Articles of Association of the issuer of a listed security, the Central Government may regulate the solicitation of any proxy, consent or authorisation pertaining to the securities of such issuer in such manner as may be prescribed.

CHAPTER IV

PROHIBITIONS AND RESTRICTIONS

16. **Credit, pledging^{*} and lending of customers' securities.**—No member or associate shall, in contravention of any rules made under this Ordinance, directly or indirectly,—

- (a) extend or maintain credit, or arrange for the extension or maintenance of credit, to or for any person for the purpose of purchasing or carrying any security; or
- (b) borrow on any security or lend or arrange for the lending of any security carried for the account of a customer; or
- (c) pledge^{*} or arrange for the pledging^{*} of any security carried for the account of any customer.

17. **Prohibition of fraudulent acts, etc.**—No person shall, for the purpose of inducing, dissuading, effecting, preventing or in any manner influencing or turning to his advantage, the sale or purchase of any security, directly or indirectly,—

- (a) employ any device, scheme or artifice, or engage in any act, practice or course of business, which operates or is intended or calculated to operate as a fraud or deceit upon any person; or
- (b) make any suggestion or statement as a fact of that which he does not believe to be true; or
- (c) omit to state or actively conceal a material^{**} fact having knowledge or belief of such fact; or
- (d) induce any person by deceiving him to do or omit to do anything which he would not do or omit if he were not so deceived; or

^{*}Substituted by S&E (Amend) Ord., 1980.

^{**}Inserted by S&E (Amend) Ord., 1980.

- (c) do any act or practice or engage in a course of business, or omit to do any act which operates or would operate as a fraud, deceit or manipulation upon any person, in particular—
- (i) make any fictitious quotation ;
 - (ii) create a false and misleading appearance of active trading in any security ;
 - (iii) effect any transaction in such security which involves no change in its beneficial ownership ;
 - (iv) enter into an order or orders for the purchase and sale of security which will ultimately cancel out each other and will not result in any change in the beneficial ownership of such security ;
 - (v) directly or indirectly effect a series of transactions in any security creating the appearance of active trading therein or of raising of price for the purpose of inducing its purchase by others or depressing its price for the purpose of inducing its sale by others ;
 - (vi) being a director or an officer of the issuer of a listed equity security or a beneficial owner of not less than ten per cent of such security who is in possession of material facts omit to disclose any such facts while buying or selling such security.

18. **Prohibition of false statements, etc.**—No person shall, in any document, paper, accounts, information or explanation which he is, by or under this Ordinance, required to furnish, or in any application made under this Ordinance, make any statement or give any information which he knows or has reasonable cause to believe to be false or incorrect in any material particular.

19. **Maintenance of secrecy.**—No person shall, except with the permission of the Central Government, communicate or otherwise disclose to any person not legally entitled thereto any information which has been entrusted to him or which he has obtained or to which he had access in the course of the performance of any functions under this Ordinance.

20. **Prohibitory orders.**—(1) Where the Central Government is of opinion that any person is engaged or is about to be engaged in any act or practice which constitutes or is calculated to constitute a contravention of the provisions of this Ordinance or of any rules made thereunder, or that any person has neglected, or is not likely, to do an act the omission or failure to do which constitutes such contravention, it may, by order in writing, direct such person to abstain from

doing the act or committing the practice which constitutes or is calculated to constitute such contravention, or to do the act, the omission or failure to do which constitutes such contravention.

(2) Every person to whom and direction under sub-section (1) is given shall comply therewith in such manner, if any, and within such time, as may be specified therein.

CHAPTER V

ENQUIRIES, PENALTIES, ORDERS AND APPEALS

- (1) The Federal Government may, on its own motion or on representation of not less than one fifth in number of the members of the Stock Exchange or, in the case of the business or any transaction mentioned in clause (b), on the representation of the Stock Exchange or any person interested in or affected by such business or transaction, at any time by order in writing, cause an enquiry to be made by any person appointed in this behalf into-
- (a) the affairs of, or dealings in, any Stock Exchange;
 - or
 - (b) the dealings, business or any transaction in securities by any broker, member, director or officer of a Stock Exchange.
- (2) Where any enquiry under sub-section (1) has been undertaken every past or present member, director, manager or other officer of the Stock Exchange to which the enquiry relates, and every other person who has had any dealing in the course of his business with such Stock Exchange or with the director, manager or officer thereof, shall furnish such information and documents in his custody or power or within his knowledge relating to or having bearing on the subject-matter of the enquiry as the person conducting the enquiry may require.
- tion of the Stock Exchange or the issuer or of the person to whom the enquiry relates, and call for and inspect and seize books of accounts or documents in the possession of any such Stock Exchange, issuer or person.
- (4) The person holding an enquiry under sub-section (1) shall, for the purpose of such enquiry have the same powers as are vested in a court under the

*Inserted by S&E (Amend) Ord., 1980.

*Substituted by Companies Ord. 1983, Notification
No. 17(1)/84 - Pub dated 8-10-84.*

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Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit, in respect of the following matters, namely :—

- (a) enforcing the attendance of a person and examining him on oath or affirmation ;
- (b) compelling the production of documents ;
- (c) issuing commissions for the examination of witnesses ;

and any proceedings before such person shall be deemed to be "judicial proceeding" within the meaning of sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860).

22. Penalty for certain refusal or failure.—(1) If any person—

- (a) refuses or fails to furnish any document, paper or information which he is required to furnish by or under this Ordinance ; or
- (b) refuses or fails to comply with any order or direction of the Central Government made or issued under this Ordinance ; or
- (c) contravenes or otherwise fails to comply with the provisions of this Ordinance ;

the Central Government may, if it is satisfied after giving the person an opportunity of being heard that the refusal, failure or contravention was wilful, by order direct that such person shall pay to the Central Government by way of penalty such sum not exceeding thirty* thousand rupees as may be specified in the order and, in the case of a continuing default, a further sum calculated at the rate of one thousand rupees for every day after the issue of such order during which the refusal, failure or contravention continues.

(2) Any sum directed to be paid under sub-section (1) shall be recoverable as an arrear of land revenue.

(3) No prosecution for an offence against this Ordinance shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

23. Civil liabilities.—(1) Every contract made in contravention of any provision of this Ordinance or any rule made thereunder shall be voidable as regards the rights of any party to the contract contravening such provision or any person not being a party to the contract who acquires any right under the contract with actual knowledge of the facts by reason of which its making or performance was in such contravention and any person affected by such contract not

*Substituted by S&E (Amend) Ord., 1980.

being himself a party to the contravention may sue to rescind any such contract to the extent it has been consummated, or for damage when rescission is not possible.

(2) Any person who makes or causes to be made, in any application, report, or document filed with the Central Government or a Stock Exchange pursuant to this Ordinance or any rule made thereunder, any statement which was false or misleading with respect to any material fact, at the time and in the light of the circumstances under which it was made, shall be liable to any person who has purchased or sold a security in reliance on such statement for damages caused by such reliance, without regard to the presence or absence of any contractual relationship between the two, unless the person who made or caused to be made the application, report or document proves that he acted in good faith and had no knowledge or reasonable ground to believe that the statement was false or misleading.

(3) Any person who participates in any act of transaction in contravention of section 17 shall be liable to any person who has purchased or sold a security in reliance on such act or transaction for damages caused by such reliance, without regard to the presence or absence of any contractual relationship between the two, unless the person so contravening proves that he acted in good faith and had no knowledge or reasonable ground to believe that there was any fraud, untruth or omission.

(4) Every person who directly or indirectly exercises control over the affairs of any person liable under this section shall also be liable to the same extent as the person whose affairs are so controlled, unless he proves that he acted in good faith and did not directly or indirectly induce the act or acts giving rise to the cause of action.

(5) Liability under this section shall be joint and several, and every person who becomes liable may recover contribution as in cases of contract from any person who, if joined in the original suit, would have been liable to make the same payment, unless the plaintiff was, and the defendant was not, guilty of fraudulent misrepresentation.

(6) No suit for the enforcement of any right or remedy provided for in this section shall lie after the expiry of three years from the date of the accrual of the cause of action.

(7) The rights and remedies provided by this Ordinance shall be in addition to any other rights and remedies available under any other law for the time being in force.

24. **Penalty.**—(1) Whoever contravenes the provisions of section 17 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to thirty* thousand rupees, or with both.

(2) Where the person guilty of an offence referred to in sub-section (1) is a company or other body corporate, every director, manager or other officer responsible for the conduct of its affairs shall, unless he proves that the offence was committed without his knowledge or that he exercised all diligence to prevent its commission, be deemed to be guilty of the offence.

25. **Cognizance of offence.**—No court shall take cognizance of any offence punishable under this Ordinance except on a report in writing of the facts constituting the offence by an officer authorised in this behalf by the Central Government; and no court inferior to that of a court of Session shall try any such offence.

26. **Revision and review.**—(1) Any order passed or made under this Ordinance by an officer or authority subordinate to the Central Government or exercising powers of the Central Government in pursuance of a direction under section 28 shall be subject to revision by the Central Government upon application being made by any aggrieved person within ninety days from the date of such order; and the Central Government's order in revision shall be final.

(2) The Central Government may, upon an application being made to it within a period of six months from the date of any order passed by it otherwise than in revision under sub-section (1) or on its own motion, review such order; and the Central Government's order in review shall be final.

CHAPTER VI

MISCELLANEOUS

27. **Advisory Committee.**—The Central Government may, for the purpose of obtaining advice and assistance in carrying out the purposes of this Ordinance, constitute an Advisory Committee consisting of such persons representing interests affected by this Ordinance or having special knowledge of the subject-matter thereof as it may think fit.

28. **Delegation of power.**^(U) The Central Government may, by notification in the official Gazette, direct that all or any of its powers and functions under this Ordinance may, subject to such limitations restrictions or conditions, if any, as it may from time to time impose, be exercised or performed also by any officer or authority subordinate to it or specially appointed for the purpose.

*Substituted by S&E (Amend) Ord., 1980.

(2) Where the Federal Government has, under sub-section (1) directed that any of its powers and functions shall be exercised or performed also by any specified authority, such authority may, by notification in the official Gazette, direct that any of the said powers and functions may, subject to such limitations, restriction or conditions, if any, as it may from time to time impose, be exercised or performed by any officer of the ~~Government~~ the Central Government or an officer or authority subordinate to it or specially appointed for the purpose of this Ordinance for anything which is in good faith done or intended to be done under this Ordinance or any rules or orders made thereunder.

31. Securities acquired in good faith.—(1) A person who, without fraud and for a lawful consideration, becomes the possessor of a certificate of an equity security, scrip, debenture, debenture stock or bond, and who is without notice that the title of the person from whom he derived his own title was defective shall hold such certificate and all rights attached thereto free from any defect of title of prior parties and free from defences available to prior parties among themselves.

(2) A Stock Exchange may regulate the documentation, procedures and guarantees required to transfer property in securities and the effects thereof on the respective rights and liabilities of the parties and such regulations, if approved by the Central Government, shall constitute binding and enforceable terms and conditions of contracts effected on the exchange, shall govern the rights and liabilities of the parties thereto, and shall govern the rights and liabilities with respect to transfers of shares on its books of the issuer of listed securities notwithstanding any provisions to the contrary contained in the Contract Act, 1872 (IX of 1872), the Negotiable Instruments Act, 1881 (XXVI of 1881), the Transfer of Property Act, 1882 (IV of 1882) or the Companies Act, 1913, or any other law for the time being in force.

32. Regulation of business of investment advisers and investment companies.—The business of investment advisers and investment companies shall be regulated in such manner as may be prescribed.

33. Power to make rules.—(1) The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) any of the matters which are to be or may be prescribed for the purposes of clause (d) of section 2 and sections 4, 5, 6, 9, 11, 12, 15, 16 and 32; and

- (b) any of the matters with respect to which a Stock Exchange may make regulations.

34. Power to make regulations.—(1) A Stock Exchange may, subject to the previous approval of the Central Government, make regulations not inconsistent with the rules to carry out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

- (i) constitution, powers and functions of the governing body of the Stock Exchange ;
- (ii) qualification for membership of the Stock Exchange ; admission, suspension and expulsion of members ; disciplinary matters, including punishment of the members ;
- (iii) classification of members into categories with regard to—
 - (a) whether they are or are not active in dealings on the Stock Exchange,
 - (b) whether they have or have not a place of business in the city where the Stock Exchange is located, and
 - (c) whether a substantial part of their business is in listed or unlisted securities ;
- (iv) a member's financial responsibility whether by way of minimum capital or a ratio between net capital or aggregate indebtedness, or both ;
- (v) regulation of dealing by members for their own account ; method of soliciting business by members ; manner of maintaining books of accounts and financial reports by members ;
- (vi) methods of selection of officers and committees to ensure a fair representation of the membership ;
- (vii) qualifications and functions of the directors, officers and other functionaries of the Stock Exchange ; disciplinary matters, including punishment of the directors, officers and functionaries ;
- (viii) listing and delisting of securities ;
- (ix) the procedure for registration of an issuer and particulars to be furnished for the purpose ;

- (x) regulation of days and hours of trading in securities; suspension of trading;
- (xi) types of contracts and settlements in the Stock Exchange and regulation of contracts generally, including the consequences of default or insolvency; confirmation of contracts;
- (xii) regulation of forward trading, 'badlas' and carry-over facilities in relation to transactions and securities;
- (xiii) manner of making and publishing quotations, fixing of trade units and differentials and publication of transactions both individually and by volume;
- (xiv) setting up of a clearing house in relation to transactions in securities;
- (xv) regulation of fictitious and numbered accounts; blank transfers, short sales, options, odd lots and margins, in relation to transactions and securities;
- (xvi) lending and pledging* of customers' securities;
- (xvii) regulation of brokerage and other charges, including fixation of minimum commission;
- (xviii) separation of the functions of broker and jobber;
- (xix) procedure for the settlement of claims or disputes, including arbitration; and
- (xx) any other matter for which a regulation is required to be or may be made.

(3) All regulations made under this section shall be published in the official Gazette and shall take effect upon such publication.

(4) Where the Central Government considers it expedient so to do, it may, by order in writing, direct a Stock Exchange to make any regulation, or to amend or rescind any regulation already made, within such period as it may specify in this behalf.

(5) If a Stock Exchange fails or neglects to comply with any direction under sub-section (4) within the specified period, the Central Government may make or amend, with or without modifications, or rescind, any regulation directed to be made, amended or rescinded; and a regulation so made, amended or rescinded by the Central Government shall be deemed to have been made, amended or rescinded by the Stock Exchange in accordance with the provisions of this section and shall have effect accordingly.

*Substituted by S&E (Amend) Ord., 1980.

35. Savings.—(1) A Stock Exchange which, immediately before the commencement of this Ordinance, was functioning shall be deemed to have been registered under this Ordinance.

(2) Any security which, immediately before the commencement of this Ordinance, stood listed on any Stock Exchange shall be deemed to have been listed under this Ordinance.

(3) Any rule, regulation, bye-law or order made or issued by a Stock Exchange which, immediately before the commencement of this Ordinance, was in force, shall, in so far as it is not inconsistent with the provisions of this Ordinance, continue in force as if made or issued under this Ordinance.

A. M. YAHYA KHAN, H. PK., J.J.,
GENERAL,
President and Chief Martial Law Administration.

GHULAM ISHAQ KHAN, H.Q.A., S. PK., CSP,
Secretary.

THE SECURITIES AND EXCHANGE RULES 1971

CONTENTS

| | PAGES |
|--|--------------|
| 1. Short title and commencement | 21 |
| 2. Definitions | 21 |
| 3. Qualifications for stock exchange membership, etc. | 22- 23 |
| 4. Manner of transaction of member's business | 23- 24 |
| 5. Maintenance of accounts and audit | 25 |
| 6. Form of application for registration | 25 |
| 7. Maintenance of books of account and other documents by stock exchanges. | 25 |
| 8. Maintenance of books of account, etc. by members | 26 |
| 9. Submission of periodical returns by stock exchange | 27 |
| 10. Submission of annual report by stock exchange | 27 |
| 11. Listing of a security on stock exchange etc. | 27 |
| 11A. Limitation for petition to Federal Government under section 9 | 27 |
| 12. Submission of annual report by issuers. | 27 |
| 13. Submission of periodical report by issuers | 28 |
| 14. Submission of return by beneficial owners, of listed equity security | 28-29 |
| 15. Calculation of amount to be tendered to an issuer by certain beneficial owners, etc. | 29 |
| 16. Mode of filing or submission of returns, etc. | 29 |

THE FIRST SCHEDULE

| | | |
|----------------------|--|-------|
| FORM I.— | Form of application for registration of a Stock Exchange under section 5 of the Securities and Exchange Ordinance, 1969 | 30-34 |
| FORM II.— | Periodical return under section 6 (2) of the Securities and Exchange Ordinance, 1969, relating to the affairs of a stock exchange for the month of | 34-35 |
| FORM III.— | Form of application under section 9 of the Securities and Exchange Ordinance, 1969 for listing a security on a stock exchange | 36-37 |
| FORM IV.— | Return of beneficial ownership of securities under section 12 of the Securities and Exchange Ordinance, 1969 | 37-38 |
| FORM IV (A).— | Return of change of beneficial ownership of securities under section 12 of the Securities and Exchange Ordinance, 1969 | 38-39 |

BEST AVAILABLE COPY

THE SECOND SCHEDULE
PART I
GENERAL

| PARAGRAPH | PAGES |
|--|-------|
| (i) Accounting policies | 40 |
| (ii) Associated companies and Associated Undertakings | 40—41 |
| (iii) Controlled firm | 41 |
| (iv) Debts | 41 |
| (v) Executive | 41 |
| (vi) Financial statements | 41 |
| (vii) Funds | 41 |
| (viii) Liability | 42 |
| (ix) Prior period items | 42 |
| (x) Provision | 42 |
| (xi) Reserve | 42 |
| (xii) Turnover | 42 |
| (xiii) Unusual items | 42 |
| 2. Information to be disclosed in financial statements | 42—43 |

PART II

PARAGRAPH

REQUIREMENT AS TO BALANCE SHEET

| | |
|--|-------|
| 1. Fixed assets | 44—46 |
| 2. Long-term investments | 46—47 |
| 3. Long-term loans and advances | 47—48 |
| 4. Long-term deposits, pre-payments and deferred costs | 48 |
| 5. Current assets | 48—50 |
| 6. Share capital and reserves | 50—52 |
| 7. Long-term loans | 52 |
| 8. Debentures and Participation Term Certificates | 52—53 |
| 9. Deferred liabilities | 53 |
| 10. Long-term deposits | 54 |
| 12—13. Current liabilities | 54—55 |
| 14. Contingencies and commitments | 55—56 |

PART III

PARAGRAPH

REQUIREMENTS AS TO PROFIT AND LOSS ACCOUNT
FORMS ANNEXED

| | |
|---|----|
| (1) Form 'A'—Pattern of holdings of shares held by shareholders | 62 |
| (2) Form 'B'—Auditor's Report to the shareholders | 63 |

THE SECURITIES AND EXCHANGE RULES, 1971

Published in the Gazette of Pakistan Extraordinary, dated 19th March, 1971.

(As Amended upto 6th February, 1984)

S. R. O. 92 (I)/71.—In exercise of the powers conferred by section 33 of the Securities and Exchange Ordinance, 1969 (XVII of 1969), read with the Ministry of Finance Notification No. S.R.O. 261 (I)70, dated the 26th October, 1970, the Securities and Exchange Authority of Pakistan is pleased to make the following rules, namely:—

1. **Short title and commencement.**—(1) These rules may be called the Securities and Exchange Rules, 1971.

(2) They shall come into force at once.

2. **Definitions.**—In these rules, unless the context otherwise requires,—

- (a) "Authority" means the [Corporate Law Authority].
- (b) "Chartered Accountant" means a person who is a chartered Accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961);
- (c) "Form" means a form set out in the First Schedule;
- (d) "net capital", in relation to a member of stock exchange, means an amount by which the current assets, namely, cash in hand or in bank, money receivable within a period of twelve months from the date of the balance sheet and such other assets, not being value of the membership card of the stock exchange, as are so classified under generally accepted accounting principles, exceed the current liabilities, namely, money payable within a period of twelve months from the date of the Balance Sheet and such other liabilities as are so classified under generally accepted accounting principles;
- (e) "officer" in relation to an issuer includes managing agents, manager, secretary or accountant of the issuer and any other person who by virtue of his office may be in possession of any material information with regard to the affairs of the issuer;
- (f) "Ordinance" means the Securities and Exchange Ordinance, 1969 (XVII of 1969);
- (g) "section" means section of the Ordinance.

[] Substituted by Notification No. S.R.O. 669(T)/82, dated 10-7-1982.

3. Qualifications for stock exchange membership, etc. ^{X The qualification for} ~~The regulations of~~
~~stock exchange relating to qualifications for membership of, and admission into,~~
~~the stock exchange shall, among other matters, provide that~~
~~membership of, and admission into, a Stock Exchange, shall be as follows:-~~

(a) No person shall be eligible to be a member of a stock exchange if—

- (i) he is less than twenty-one years of age ;
- (ii) he is not a citizen of Pakistan ;
- (iii) he is a lunatic or a person of unsound mind ;
- (iv) he has been convicted of an offence involving fraud or breach of trust ;
- (v) he has been adjudicated as insolvent or has suspended payment or has compounded with his creditors ;
- (vi) he has not had experience in the business of securities for a period of not less than two years :

Provided that the regulations of a stock exchange may authorise the governing body thereof to waive compliance with the foregoing condition relating to experience in the business of securities if such person is, in respect of means, integrity and background, considered by the governing body to be otherwise qualified for membership ;

(b) A member shall at all times maintain a net capital balance in the capital account of an amount which is—

- (i) in the case of a stock exchange which in the previous calendar year, had on the cash counter a turnover of securities, other than bonus vouchers, exceeding one crore in number—not less than ^{X two hundred} ~~fifty~~ thousand rupees ; and
- (ii) in any other case—not less than ^{X seventy five} ~~fifteen~~ thousand rupees :

X Amendments made
 by SRO-768(E)/89
 dt 26-7-1989

Provided that a member who is also the member of any other stock exchange shall maintain a net capital balance of not less than fifty thousand rupees :

Provided further that, in the case of firm, the amount of the net capital balance to be maintained shall be the amount obtained by multiplying fifteen thousand rupees or fifty thousand rupees, as the case may be, by the number of such partners of the firm as are members of the stock exchange ;

X Substituted vide S.R.O. 1032 (L)/89 dated 22-10-1985.

(c) A member shall cease to be a member if, at any time.—

(i) he ceases to be a citizen of Pakistan :

Provided that, in the case of a stock exchange functioning immediately before the commencement of these rules, the membership of a member thereof who is not a citizen of Pakistan shall become suspended on such commencement and shall remain so suspended until he becomes a citizen of Pakistan ; or

(ii) he is declared a lunatic or a person of unsound mind ; or

(iii) he is convicted of an offence involving fraud or breach of trust ; or

(iv) he has been adjudicated as insolvent or has suspended payment or has compounded with his creditors :

(d) The membership of a member or members who are partners in a firm and who are in active business shall become suspended as soon as the net capital balance falls short of the amount specified in clause (b) and shall remain so suspended until the net capital balance is increased so as not to fall short of that amount :

(e) Every member shall report to the stock exchange weekly that he or the firm of which he is a partner had, at all times during the week to which the report relates, a net capital balance of an amount not less than that specified in clause (b) and shall forthwith inform the stock exchange if, at any time, such balance falls short of that amount.

4. **Manner of transaction of member's business.**—(1) All orders to buy or sell securities which a member may receive shall be entered, in the chronological order, in a register to be maintained by him in a form which shows the name and address of the person who placed the order, the name and number of the securities to be bought or sold, the nature of the transaction and the limitation, if any, as to the price of the securities or the period for which the order is to be valid.

(2) (a) A member who has an "at best" order from a customer to buy a security shall not, while such order remains unexecuted, buy the same security on the stock exchange for his own account or for the account of the firm of which he is a partner or for the account of any of the partners therein or for any account in which he, such firm or partner, directly or indirectly, has an interest.

(b) A member who has an "at best" order from a customer to sell a security shall not, while such order remains unexecuted, sell the same security on the stock exchange for his own account or for the account of the firm of which he is a partner or for the account of any of the partners therein or for any account in which he, such firm or partner, directly or indirectly, has an interest.

(c) A member who has a limit order from a customer to buy a security shall not while such order remains unexecuted, buy the same security at or below the limit price on the stock exchange for his own account or for the account of the firm of which he is a partner or for the account of any of the partners therein or for any account in which he, such firm or partner, directly or indirectly, has an interest.

(d) A member who has a limit order from a customer to sell a security shall not, while such order remains unexecuted, sell the same security at or above the limit price on the stock exchange for his own account or for the account of the firm of which he is a partner or for the account of any of the partners therein or for any account in which he, such firm or partner, directly or indirectly, has an interest.

(3) A member who has an order to buy or to sell a security shall not fill such order by selling or buying for his own account or for the account of the firm of which he is a partner or for the account of any of the partners therein or for any account in which he, such firm or partner, directly or indirectly, has an interest, except when—

- (a) the order is limit order ; or
- (b) (i) he sells the security at a price not exceeding the price at which the transaction immediately preceding the receipt of the order by him actually took place ; or
- (ii) he buys the security at a price which is not less than the price at which the transaction immediately preceding the receipt of the order by him actually took place.

(4) A member executing an order of a customer shall, within twenty-four hours of the execution of the order, transmit to the customer a confirmation which shall include the following information, namely :—

- (a) date on which the order is executed ;
- (b) name and number of the securities ;
- (c) nature of transaction (spot, ready or forward and also whether bought or sold) ;

82

- (d) price ;
- (e) commission, if the member is acting as a broker ;
- (f) whether the order is executed for the member's own account or from the market.

5. Maintenance of accounts and audit.—(1) Every member shall prepare once every year a balance sheet and a statement of income and expenditure.

(2) A member shall have his accounts audited by an auditor who is a chartered accountant to be appointed by the Authority whenever such audit is required by the Authority in the public interest.

(3) The auditor shall furnish his report to the Authority within such time as the Authority may specify.

6. Form of application for registration.—An application for the registration of a stock exchange under section 5 shall be made to the Authority in Form I.

7. Maintenance of books of account and other documents by stock exchanges.—(1) Every stock exchange shall prepare and maintain, as required by sub-section (1) of section 6, such books of account and other documents as will accurately disclose a true and fair picture of the state of affairs of the exchange at any point of time.

(2) The books of account and other documents referred to in sub-rule (1) shall include—

- (a) journals (or other comparable record), cash book and any other records of original entry forming the basis of entries into any ledger ;
- (b) ledgers (or other comparable record) reflecting asset, liability, reserve, capital, income and expense ;
- (c) ledgers (or other comparable record) showing the position in respect of each member as on the settlement day of the securities which the member had bought or sold since the last preceding settlement day and which had been transferred through a Clearing House maintained by the stock exchange ;
- (d) daily record of quotations and transactions on the stock exchange showing the time at which each transaction took place ;
- (e) record of transactions with banks ;
- (f) record of security deposits ;
- (g) register of members ;

- (b) register of authorised clerks; and
- (i) minute books of the meetings of—
 - (i) members;
 - (ii) governing body;
 - (iii) any committee of the general body of members or of the governing body.

(3) The books of accounts and documents referred to in sub-rule (1) shall be preserved for a period of not less than five years.

3. Maintenance of books of account, etc. by members.—(1) Every member shall prepare and maintain, as required by sub-section (1) of section 6, the following books of account and other documents in a manner that will disclose a true, accurate and up-to-date position of his business, namely:—

- (a) journal (or other comparable record), cash book and any other books of original entry forming the basis of entries into any ledger, the books of original entry being such as contain a daily record of all orders for purchase or sale of securities, all purchases and sales of securities, all receipts and deliveries of securities and all other debits and credits;
- (b) ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts;
- (c) ledgers (or other comparable records) reflecting securities in transfer, securities borrowed and securities loaned and securities bought or sold of which the delivery is delayed;
- (d) record of all balance of all ledger accounts in the form of trial balances to be prepared at least once at the end of the six months of every year of account;
- (e) record of transactions with the banks;
- (f) contract books showing details of all contracts entered into by a member with other members of the exchange or counterfoils or duplicates of memos of confirmation issued to such other members;
- (g) duplicates or counterfoils of memos of confirmation issued to customers.

(2) The books of accounts and other documents referred to in sub-rule (1) shall be preserved for a period of not less than five years.

9. **Submission of periodical returns by stock exchange.**—The periodical return relating to the affairs of a stock exchange, as required by sub-section (2) of section 6, shall be submitted to the Authority monthly in Form II within fifteen days of the close of the month to which it relates.

10. **Submission of annual report by stock exchange.**—(1) The annual report relating to the affairs of a stock exchange, as required by sub-section (2) of section 6, shall be submitted to the Authority not less than fourteen days before the meeting of the shareholders of the stock exchange before which it is to be laid.

(2) Every such report shall be accompanied by a copy of the balance sheet and profit and loss account of such year audited by an auditor who is a chartered accountant.

11. **[Listing of security on stock exchange, etc.**—An application under sub-section (1) of section 9 for listing of a security on a stock exchange shall be made in Form III; and]

[11-A. Limitation for petitions to Federal Government under section 9.—A petition to the Federal Government under sub-section (3) or sub-section (6) of section 9 shall be made within thirty days of the stock exchange refusing to list or, as the case may be, delist the security.]

~~* 12. **Submission of annual report by issuers.**—(1) The annual report required by section 11 to be furnished by an issuer of a listed security shall include a balance sheet, profit and loss account, ² changes of financial position statement or sources and application of funds statement and pattern of shareholding statement.]~~

~~(2) The balance sheet and profit and loss account included in the annual report shall, except in the case of an issuer which is required to prepare a balance sheet and profit and loss account in a form prescribed by the Banking Companies Ordinance, 1962 (LVII of 1962), or the Insurance Act, 1938 (IV of 1938), be prepared in accordance with the requirements laid down in the Second Schedule*.~~

~~²[2. (A) The pattern of shareholding statement included in the annual report shall be in Form 'A'.]~~

~~(3) The balance sheet and profit and loss account shall be audited by an auditor who is a chartered accountant and the report of the auditor shall be in Form "B" annexed to the Second Schedule.~~

¹ [Substituted by Notification No. S.R.O. 1274(1)/80 dated 20-12-1980.

² [Added by Notification No. S.R.O. 669(1)/82, dated 10-7-1982.

*Words appearing thereafter deleted by Notification No. S.R.O. 669(1)/82, dated 10-7-1982.

~~* X.~~ Omitted by S.R.O. 1234(1)/85 dated 12-12-1985.

(4) Every issuer shall furnish the annual report, together with the balance sheet and the profit and loss account referred to in sub-rule (1), to the [security holders] at least fourteen days before the general meeting of the shareholders of the issuer at which the report is to be laid before them and shall simultaneously furnish a copy of such report to the stock exchange or exchanges on which its securities are listed and to the Authority.

(5) Notwithstanding any thing contained in sub-rule (4), the first annual report to be furnished by an issuer shall be in respect of the year of account of the issuer ending after the commencement of these rules.

(6) An issuer shall, within three months of the general meeting referred to in sub-rule (4), submit to the Authority a list of the members of the issuer stating the facts as they stood on the date of that general meeting.

(7) The list required to be submitted under sub-rule (6) shall be the list required by section 32 of the Companies Act, 1913 (VII of 1913), to be submitted to the registrar.

X 13. Submission of periodical report by issuer.—Every issuer shall, within [two months] of the close of the first half-year of its year of account, prepare and transmit by registered post to the stock exchange or exchanges on which its securities are listed and to the Authority and under postal certificate to its security-holders a profit and loss account for, and a balance sheet as at the end of, that half-year, whether audited or otherwise.

X 14. Submission of return by beneficial owners of listed equity security.—

(1) Omitted.*

(2)** Every person who, being the beneficial owner of any class of the listed equity securities of an issuer, becomes a director or officer of the issuer or who becomes the beneficial owner, directly or indirectly, of more than ten per cent of any class of such securities shall file with the Authority a return in Form IV within fifteen days of his becoming such director, officer or beneficial owner.

(3)** Every director or officer of an issuer who is the beneficial owner of any class of its equity securities which come to be listed on a stock exchange,

[] Words Substituted by Notification No. S.R.O. 859(I)/83, dated 29-8-1983.

*Omitted by Notification No. S.R.O. 669(I)/82, dated 10-7-1982.

**Added by Notification No. S.R.O. 1238(I)/72, dated 19-12-1972.

X. Omitted by SRO-1234(I)/85 dated 12-12-1985

and every person who becomes the beneficial owner, directly or indirectly, of more than ten per cent of any class of such securities which come to be so listed, shall file with the Authority a return in Form IV within fifteen days of the securities coming to be so listed.

(4) Whenever a change in the beneficial ownership takes place in a security in respect of which a return has been filed under sub-rule (2), the particulars of such change shall be filed with the Authority in Form IV-A within fifteen days of such change.

(5) Every person required to file the return under sub-rule (2) or sub-rule (3) shall also be required to file a return as and when the Authority by order in writing so requires, within such time, as may be specified therein.]

~~X~~ 15. Calculation of amount to be tendered to an issuer by certain beneficial owners, etc.—(1) For calculating the amount required by section 14 to be reported and tendered to an issuer, the person by whom the amount is to be so reported and tendered to an issuer, the person by whom the amount is to be so reported and tendered may deduct from the amount of gain referred to in that section the amount of brokerage, stamp duty and other expenditure actually paid or incurred in making that gain.

(2) Any deduction made under sub-rule (1) shall be supported by documentary evidence acceptable to the issuer as proof of the brokerage, stamp duty and other expenditure having been actually paid or incurred.

(3) Any loss arising out of any transaction in any security shall not, for the purposes of sub-rule (1), be deemed to be expenditure paid or incurred in making gain out of a transaction in that security.

~~X~~ 16. Mode of filing or submission of returns, etc.—Any person required by the Ordinance or any of these rules to furnish any documents, statement, return or report to the Authority shall furnish it, either in person or through an agent, to the Authority at its headquarters at Islamabad or send it to the Authority by registered post.

*Words "Sub-rule (1) or " appearing thereafter omitted by Notification No. S.R.O. 669 (1)/82, dated 10-7-1982.

[] Added by Notification No. S.R.O. 669(1)/82, dated 10-7-1982.

~~X~~ Omitted by SR-1234(1)/85 dated 12-12-1985.

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THE FIRST SCHEDULE

[See rule 2(c)]

FROM I

(See rule 6)

FORM OF APPLICATION FOR REGISTRATION OF A STOCK EXCHANGE UNDER SECTION 5 OF THE SECURITIES AND EXCHANGE ORDINANCE, 1969.

To

[The Corporate Law Authority,
Government of Pakistan,
Islamabad.

Dear Sir,

We/ I hereby apply for registration of
(Name of the Stock Exchange).

under section 5 of the Securities and Exchange Ordinance, 1969.

2. Four spare copies of the Memorandum and Articles of Association ofand four copies of the rules and/or bye-laws
(Name of the Stock Exchange)

relating to listing of securities and transactions on the Exchange are enclosed.

3. Necessary information required in the annex to this form is furnished.

Yours faithfully,

.....
Signature of the applicant.

Annex to Form I

PART I.—GENERAL

- 1. Name of the applicant Stock Exchange
change
- 2. Address
- 3. Date of Establishment.

[] Substituted by Notification No. S.R.O. 669 (I/82, dated 10-7-1982.

88

- 4. Is your Exchange a joint stock company registered under the Companies Act, 1913? If so, state whether public or private. If not, the basis of organization may be stated.
- 5. Give details of your capital structure.

PART II.—MEMBERSHIP

- 6. What is the proposed number of members?
- 7. Is there a ceiling to the maximum number of members that you would take?
- 8. Give details of the minimum qualifications and/or experience for membership.
- 9. If you have different classes of members, give details.
- 10. State the security deposit required from each member, admission fee and the rate of annual subscription.
- 11. Do you insist on your members or partners of firms who are members to divest themselves of other activities either as principals or as employees?
- 12. Do your rules permit firms to become members? State the conditions under which new partners can be admitted?
- 13. If your rules do not permit firms becoming members, do you permit individual members to form a partnership?

- 14. Do your rules permit members to work in partnership with non-members.? If so, give necessary details.

PART III.—GOVERNING BODY.

- 15. What will be the strength of your governing body? Give details of the constitution, powers of management, elections and tenure of office of the members of the governing body and the manner in which its business is transacted.

- 16. Are trade or commercial interests represented on the governing body? If so, give details.

- 17. Do you propose to associate shareholders or investors' associations with the management of your Exchange? If so, give details.

- 18. Give details of any other committee or sub-committee that can be constituted under the bye-laws of your Stock Exchange alongwith the functions of each.

- 19. Give the designations, powers and duties of principal office bearers of your Exchange.

PART IV.—TRADING

- 20. Give details of the manner in which trading will be carried on.

- 21. State the different kinds of contracts on your Exchange e.g. spot, ready and forward. Also state the period of delivery and payment in each case.

- (c) Particulars of those refused listing and reasons thereof in each case.
- 3. Particulars of securities delisted and reasons thereof in each case.
- 4. Particulars of member disciplined and nature of offence/violation committed
- 5. Particulars of members declared defaulters.
- 6. Particulars of members whose net capital balance fell below the prescribed amount.
- 7. Particulars of non-compliance of any regulations of the Stock Exchange by any company whose securities are listed on the Stock Exchange.
- 8. Trading volume during the month—
 - (a) Spot.
 - (b) Ready.
 - (c) Forward
- 9. Particulars of securities which registered a rise/decline of ten per cent or more in value during the month
- 10. Particulars of securities in which no transactions took place during the month.
- 11. Brief analysis of the stock market trends during the month

Place

Signature

Date

Designation

36 22. Give details of the scale of brokers' commission and other charges, if any, prescribed by your Exchange. (See rule 11)

FORM OF APPLICATION UNDER SECTION 9 OF THE SECURITIES AND EXCHANGE ORDINANCE, 1956, FOR LISTING A SECURITY ON A STOCK EXCHANGE

To... 24. Do you classify your members into brokers and jobbers?

Dear Sir, Do you have any regulations regarding the listing of our own account? We have an account on your stock exchange. (Name of the Security)

26. Do you have any regulations regarding the registration of members of credit to any person for the purpose of purchasing any security? Yours faithfully, (Signature and address)

27. Do you prescribe the circumstances in which members can borrow on the account of a customer? The following particulars and documents shall be annexed to the listing application: (1) Memorandum and Articles of Association and, in case of debentures, a copy of the trust deed;

28. Do you prescribe the circumstances under which a member can hypothecate any security carried for the account of any customer? (2) Copies of prospectuses issued by the company in respect of any security already listed on a stock exchange; (3) Copies of balance sheets and audited accounts for the last three completed years or for a shorter number of years if the company has been

29. Do you have a clearing house for the company? (4) A statement showing— (a) its factors including subsidiaries, changes in its capital and management borrowings; (5) A statement showing—

30. Will you have any arrangements for recording of dividends and cash bonuses paid during the last 10 years or such shorter period as the company may have been in existence; (b) dividends or interest in arrears, if any.

31. Will you have any arrangement for publishing and publishing or other documents relating to arrangements with or between— (a) vendors and/or promoters.

- (b) underwriters.
- (c) brokers.

(7) Certified copies of agreements with,—

- (a) managing agents,
- (b) selling agents,
- (c) managing director and technical directors.

(8) A statement containing particulars, dates of and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents except those entered into in the normal course of the company's business or intended business together with a brief description of the terms of such agreements.

(9) Certified copies of the agreements with the NIT, ICP, PICIC, IDBP and any other financial institution.

(10) Names and addresses of the directors and persons holding ten per cent or more of any class of equity security as on the date of application together with the number of share or debentures held by each.

(11) Particulars of security for which listing is sought.

2. The stock exchange may, either generally by its bye-laws or in any particular case, call for such further particulars or documents or undertaking as it deems proper.

FORM IV*

(See Rule 14)

(pp. 38-63 deleted)

X.

RETURN OF BENEFICIAL OWNERSHIP OF SECURITIES UNDER SECTION 12 OF THE SECURITIES AND EXCHANGE ORDINANCE, 1969

As at.....

- 1. Name of the director/officer/shareholder.
- 2. Name of the issuer.
- 3. Whether a director, officer or shareholder.
- 4. Nature and class of the securities beneficially owned.

*Substituted by Notification No. S.R.O. 1238(I)/72, dated 19-12-1972.

X. Substituted by Notification No. SRO 1235(I)/85 dt 14-12-85 (Form 31 of Companies (General Provisions & Forms) Rules, 1985.

INVESTMENT COMPANIES AND INVESTMENT ADVISERS RULES, 1971

CONTENTS

CHAPTER I

PRELIMINARY

| RULES | PAGES |
|---|-------|
| 1. Short title and commencement | 67 |
| 2. Definitions | 67—68 |

CHAPTER II

REGULATION OF THE BUSINESS OF INVESTMENT COMPANIES

| | |
|---|-------|
| 3. No investment company to commence business without registration .. | 69 |
| 4. Eligibility for registration | 69 |
| 5. Registration | 69 |
| 6. Investment policy and diversification | 70 |
| 7. Sale of securities and cost thereof | 70 |
| 8. Prohibitions | 70—71 |
| 9. Transactions with directors, etc | 71 |
| 10. Appointment of investment adviser | 71—72 |
| 11. Remuneration payable to investment adviser | 72 |
| 12. Power of the Authority to give certain directions | 72—73 |
| 13. Amount distributable to shareholders | 73 |
| 14. Publication of portfolio securities | 73 |
| 15. Custody of securities | 73 |
| 16. Maintenance of books of account and other documents | 73—74 |
| 17. Periodical report to shareholders, etc. | 74—75 |

CHAPTER III

REGULATION OF THE BUSINESS OF INVESTMENT ADVISERS

| | |
|---|-------|
| 18. No person to commence business without registration | 75 |
| 19. Eligibility for registration | 75 |
| 20. Registration | 75—76 |
| 21. Maintenance of books of accounts etc. | 76 |
| 22. Submission of annual report to Authority | 76 |
| 23. Enquiry | 76 |
| 24. Cancellation of registration | 77 |

66 INVESTMENT COMPANIES AND INVESTMENT ADVISERS RULES, 1971

THE SCHEDULE

| | PAGES |
|--|-------|
| FORM I.—Form of application for registration as an investment company .. | 78—80 |
| FORM II.—Certificate of registration as an investment company | 80—81 |
| FORM III.—Form of application for registration as investment adviser .. | 81—82 |
| FORM IV.—Certificate of registration as an Investment Adviser. | 83 |

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INVESTMENT COMPANIES AND INVESTMENT ADVISERS RULES, 1971 67
INVESTMENT COMPANIES AND INVESTMENT ADVISERS RULES, 1971
(Published in the Gazette of Pakistan Extraordinary, dated 12th March, 1972)

(As Amended upto 6th February, 1984)

S. R. O. 78(I)/71.—In exercise of the powers conferred by section 32 of the Securities and Exchange Ordinance, 1969 (XVII of 1969), the Central Government is pleased to make the following rules to regulate the business of investment advisers and investment companies, namely:—

CHAPTER I

PRELIMINARY

1. **Short title and commencement.**—(1) These rules may be called the Investment Companies and Investment Advisers Rules, 1971.

(2) They shall come into force at once.

2. **Definitions.**—In the rules, unless there is anything repugnant in the subject or context,—

(a) "Authority" means the [Corporate Law Authority];

(b) "closed-end company", in relation to an investment company, means a company which does not continuously offer for sale a security which entitle the holder of such security on demand to receive his proportionate share of the net assets of the company;

(c) "custodian" means a banking company within the meaning of the Banking Companies Ordinance, 1962 (LVII of 1962), which is appointed to be a custodian under these rules;

(d) "Form" means a form set out in the Schedule;

(e) "net assets", in relation to an investment company, means the excess of assets over liabilities of the company, such excess being computed in the manner specified hereunder:—

(i) A security listed on a stock exchange shall be valued at its last sale price on such exchange on the date as of which it is valued, or if such exchange is not open on such date, then at its last sale price on the next preceding date on which such exchange was open and if no sale is reported for such date, the security shall be valued at an amount not higher than the closing asked price nor lower than the closing bid price.

[] Substituted by Notification No. S.R.O. 176(I)/82, dated 20-2-1982.

68 INVESTMENT COMPANIES AND INVESTMENT ADVISERS RULES, 1971

- (ii) An investment purchased and awaiting payment against delivery shall be included for valuation purposes as a security held, and the cash account of the company shall be adjusted to reflect the purchase price, including brokers' commission and other expenses incurred in the purchase thereof but not disbursed as of the valuation date.
 - (iii) An investment sold but not delivered pending receipt of proceeds shall be valued at the net sale price.
 - (iv) The value of any dividends, bonus shares, or rights which may have been declared on securities in the portfolio but not received by the company as of the close of business on the valuation date shall be included as assets of the company, if the security upon which such dividends, bonuses or rights were declared is included in the assets and is valued *ex-dividend*, *ex-bonus* or *ex-rights* as the case may be.
 - (v) Interest accrued on any interest-bearing security in the portfolio shall be included as an asset of the company if such accrued interest is not otherwise included in the valuation of the security.
 - (vi) Any other income accrued up to the date on which computation was made shall also be included in the assets.
 - (vii) All liabilities, expenses, taxes and other charges due or accrued up to the date of computation which are chargeable under these rules, other than the paid-up capital of the company, shall be deducted from the value of the assets.
 - (viii) The remuneration accrued up to the date of computation payable to the investment adviser for providing management and other services shall be included as an expense.
- (f) "net capital", in relation to an investment adviser, means an amount by which the current assets, namely, cash in hand or in bank, money receivable within a period of twelve months from the date of the balance sheet and such other assets, not being the value of securities referred to in sub-rule (2) of rule 5, as are so classified under generally accepted accounting principles, exceed the current liabilities, namely, money payable within a period of twelve months from the date of the balance sheet and such other liabilities as are so classified under generally accepted accounting principles.
- (g) "Ordinance" means the Securities and Exchange Ordinance, 1969 (XVII of 1969).

CHAPTER II

REGULATION OF THE BUSINESS OF INVESTMENT COMPANIES

3. **No investment company to commence business without registration.**—No company shall commence business as an investment company unless it is registered with the Authority under these rules.

4. **Eligibility for registration.**—A company proposing to commence business as an investment company shall be eligible for registration under these rules if it fulfils or complies with the following conditions or requirements, namely :—

- ✓ (a) that such company is registered as a public limited company under the Companies Act, 1913 (VII of 1913) ;
- (b) that it is to function as a closed-end investment company with a capital of not less than ~~fifty~~ ^{twenty million} ~~lacs~~ ^{Rs. 10.52 (1)/92} ~~rupees, but not more than two crore~~ ^{1.26.10 22} ~~rupees.~~ ^{U.S.}
- (c) that no director, officer or employee of such company has been convicted of fraud or breach of trust ;
- (d) that no director, officer or employee of such company has been adjudicated as insolvent or has suspended payment or has compounded with his creditors ;
- (e) that the promoters of such company are, in the opinion of the Authority, persons of means and integrity and have special knowledge of matters which the company may have to deal with as an investment company.

5. **Registration.**—(1) Any company which is eligible for registration under rule 4 as an investment company may make an application in Form I to the Authority for registration under these rules.

(2) An application under sub-rule (1) shall, besides the other documents referred to in Form I, be accompanied by an undertaking by the investment adviser of the company that the investment adviser will at all times hold or beneficially own equity securities of the company of an amount which is neither ~~more nor~~ ^(more or) less than ten per cent ^(and more than two per cent) of the paid-up value of such securities.

(3) The Authority, if it is satisfied after such enquiry and after obtaining such further information as it may consider necessary :—

- (i) that the applicant is eligible for registration ; and
- (ii) that it would be in the interest of the capital market so to do, may grant a certificate of registration to such company in Form II.

[] Amended by Notification No-SRO 553(1)/84 dated 13-6-84

6. **Investment policy and diversification.**—(1) The investment policy of an investment company shall be clearly and concisely stated in its Memorandum and Articles of Association and the public offer for the sale of its securities.

(2) An investment company shall not enter into any transaction in any security other than a security which is listed on a stock exchange or for the listing of which an application has been made to a stock exchange.

(3) The investment of an investment company in any other company shall not, at any time, exceed an amount equal to ^{x. (Ten)} ~~five~~ per cent of paid-up capital of the investment company or an amount sufficient to acquire ten per cent of any class of the securities of that other company.

x.
Amended by
SRO No. 1032
(1)/82 dt
26.10.72

7. **Sale of securities and cost thereof.**—(1) Securities representing ~~ninety~~ ^{x.} ~~percent~~ of the capital of an investment company shall be offered to the public at par; but no such offer shall be made—

(a) until the investment adviser of the investment company has made an investment of the amount referred to in sub-rule (2) of rule 5; and

(b) unless the offer has been underwritten by an underwriter appointed by the investment company with the prior approval in writing of the Authority.

(2) An investment company shall not sell any securities for any consideration other than cash.

(3) All expenses incurred in connection with the incorporation of an investment company and the offer for sale of the securities of the company and the distribution of such securities, including commission payable to the underwriters, shall be borne by the investment adviser and shall be reimbursable by the company in equal amounts paid annually over a period of not less than five years.

(4) [interest at the prevailing bank rate] shall be payable by the company in respect of the expenses referred to in sub-rule (3).

(5) The expenses referred to in sub-rule (3) shall be reported to the Authority, giving their break-up under separate heads, as soon as the distribution of the securities is completed.

8. **Prohibitions.**—No investment company shall—

(a) merge with, acquire or takeover any other investment company, unless it has obtained the prior approval of the Authority in writing to the scheme of such merger, acquisition or takeover;

[] Substituted by Notification No. S.R.O. 749(T)/75, dated 4-7-1975.

(1) Amended by Notification No. 553 (1)/84 dated 13-6-1984

- x (b) ^(pledge) ~~hypothecate or mortgage~~ any of the securities held or beneficially owned by it ;
- (c) make a loan or advance of money to any person except in connection with the normal business of the investment company ;
- (d) effect a short sale in any security .
- (e) purchase any security in a forward contract ;
- (f) purchase any security on margin ;
- (g) participate in a joint account with others in any transaction .
- (h) apply any part of its assets to real estate, commodities or commodities contracts ;
- (i) acquire any security of which another investment company is the issuer ;
- (j) make an investment in a company which has the effect of vesting the management, or control over the affairs, of such company in the investment company ;
- (k) employ as a broker, directly or indirectly, any director, officer or employee of the investment company or its investment adviser or any director, officer or employee thereof ;
- (l) issue at any time, without the prior approval of the Authority in writing, a senior security which is either stock or represents indebtedness.

9. **Transactions with directors, etc.**—No investment company shall without the prior approval of the Authority in writing, purchase from, or sell to, any director, officer or employee of the investment company or of the investment adviser thereof or a person who beneficially owns ten per cent or more of the equity securities of the company or of its investment adviser.

10. **Appointment of investment adviser.**—(1) No investment company shall appoint any person as an investment adviser except by a contract in writing the terms of which have been previously approved by the Authority in writing.

(2) The contract shall, initially or on renewal, be valid for a period not exceeding [ten] years and shall not be renewed or modified unless such renewal

[] Substituted by Notification No. S.R.O. 749(1)/75, dated 4-7-1975.

x () Amended by Notification No. SRO 553(1)/84
dated 13-6-1984.

12 INVESTMENT COMPANIES AND INVESTMENT ADVISERS RULES, 1971

or modification has been authorised by the shareholders of the investment company in general meeting and approved by the Authority.

(2A)* If the contract, as initially entered into or as renewed, is terminated within the first five years of the contract, and not later, compensation for each year of the unexpired period of the contract shall be paid to the investment adviser at the rate of one-fourth of his annual average remuneration during the expired period of the contract.

Explanation.—Where the expired period is a fraction of a year or includes a fraction of a year, the remuneration for the fraction of the year shall be converted pro rata into full years' remuneration and then the average annual remuneration shall be worked out to determine the compensation payable for the unexpired period of the contract; and

(3) The contract shall, among other things, provide that the investment adviser shall bear all expenditure in respect of the secretariat and office space of the company and professional management, including all administrative, accounting and legal services, and that the fee payable to the auditors and the custodian, taxes on income of the company, brokerage, stamp duty and any other duties or taxes connected with the sale or purchase of securities shall be payable by the investment company.

11. **Remuneration payable to investment adviser.**—The investment adviser of an investment company shall be entitled to be paid annually, after the accounts of the investment company have been audited, a remuneration :—

- (a) **during the first five years of investment company's existence, of an amount not exceeding two per cent of the net assets of the company as at the end of its year of account and thereafter of an amount equal to one per cent of such assets; and
- (b) [of an] amount not exceeding one-half of the amount by which the dividend distributed by the investment company exceeds six per cent.

12. **Power of Authority to give certain directions.**—The Authority, if it is satisfied that it is necessary or expedient so to do in the public interest or of the capital market in Pakistan, may, by order in writing, direct an investment company, within such time as may be specified in the order,—

- (a) to disinvest the whole or such part of the investment portfolio as may be so specified;

* Added by Notification No. S.R.O. 749(I)/75, dated 4-7-1975.

** Substituted by Notification No. S.R.O. 749(I)/75, dated 4-7-1975.

[] Substituted by Notification No. S.R.O. 749(I)/75, dated 4-7-1975.

(b) to refrain from investing or disinvesting such securities as may be so specified ;

(c) to co-opt one or more persons nominated by the Authority as members of the board of directors of the company with the same status powers and rights as the other members of the board.

13. **Amount distributable to shareholders.**—An investment company shall distribute by way of dividend to its shareholders not less than ninety per cent of its income derived from interest, dividends received and capital gains arising from the acquisition and disposal of securities as reduced by such expenses as are chargeable to the company under these rules, including the remuneration payable to the investment adviser.

14. **Publication of portfolio securities.**—Every investment company shall cause to be published, in the Bulletin or other such publication of the stock exchange on which its securities are listed, the names and the value of its portfolio securities as at the end of each half-year.

15. **Custody of securities.**—(1) Every investment company shall place and maintain the securities owned or held by the company with a custodian appointed by it with the prior approval in writing of the Authority.

(2) The investment company shall settle with the custodian a scheme for the custody of securities which, shall, among other matters, provide for the circumstances in which the securities may be released from custody.

(3) The custodian shall, if it feels that the nature of any release of a security from custody is contrary to the provisions of these rules, report the matter to the Authority forthwith.

16. **Maintenance of books of accounts and other documents.**—(1) Every investment company shall maintain such books of accounts and other records as shall depict a true and fair picture of its state of affairs, including—

(a) journals, cash book and other records of original entry forming the basis of entry in any ledger ;

(b) ledgers (or other comparable record) reflecting asset, liability, income and expense ;

(c) ledgers (or other comparable record) showing at any time securities which are receivable or deliverable ;

(d) record of transactions with the bank ;

(e) register of transaction in securities ; and

(f) record of the meetings of the board of directors.

7.1 INVESTMENT COMPANIES AND INVESTMENT ADVISERS RULES, 1971

(2) The books of account and other records to be maintained under sub-rule (1) shall be preserved for a period of not less than five years.

17. Periodical reports to shareholders, etc.—(1) Every investment company shall transmit to its shareholders,—

(a) an annual report, together with a copy of the balance sheet and income and expenditure account and the auditor's report, not less than fourteen days before the date of the general meeting at which it is to be laid before the shareholders; and

(b) a six-month report, within [two] month of the end of each half-year.

(2) Such report, so far as may be applicable, shall be in accordance with the provisions of the Securities and Exchange Rules, 1971, and shall contain a statement showing the securities owned at the beginning of the relevant period, securities purchased or sold during such period, and the securities held at the end of such period together with the value (at cost and at market), ~~(the sale price and the capital gain or loss in each case)~~ and the percentage in relation to its own assets and the paid-up capital of the company whose securities are owned.

(3) The statement of income and expenditure of the investment company shall include a statement of income and expenditure of the investment adviser in relation to the investment company.

(4) A copy of the annual report referred to in sub-rule (1) shall, within the time specified therein, be furnished to the Authority together with a statement containing the following information in respect of the investment company as at the end of the year :—

- (a) Total number of security holders.
- (b) Particulars of persons holding five per cent or more of the securities of the company at any time during the year.
- (c) Names and number of securities held by directors and officers of the company.
- (d) Any security of any other issuer sold and then bought during any six-month period.
- (e) Particulars of the personnel (executive, research and other) of the investment company.
- (f) Remuneration paid to the investment adviser.
- (g) Particulars of the personnel (executive, research and others) of the investment adviser.

[] Substituted by S.R.O. No. 1196 (I)/83, dated 20-12-1983.

*x. U Deleted by Notification No. SRO 553 (I)/84 dated 13-6-1984.

- (5) Every investment company shall, as and when required by the Authority by order in writing and within time as may be specified therein, furnish to the Authority the information regarding the sale price and the capital gain or loss in respect of each security purchased and sold.

⑤ Now sub-rule added.

CHAPTER III

REGULATION OF THE BUSINESS OF INVESTMENT ADVISERS

18. **No person to commence business without registration.**—No person shall commence business as an investment adviser unless such person is registered with the Authority under these rules.

19. **Eligibility for registration.**—Any person proposing to commence business as an investment adviser shall be eligible for registration under these rules if it fulfils or complies with following conditions or requirements, namely:—

- (a) that such person is registered as a company under the Companies Act, 1913 (VII of 1913) ;
- (b) that no director, officer or employee of such company has been convicted of fraud or breach of trust ;
- (c) that no director, officer or employee of such company has been adjudicated as insolvent or has suspended payment or has compounded with his creditors ;
- (d) that the directors of such company are, to the satisfaction of the Authority, persons of means and integrity and have special knowledge of the matters which the company may have to deal with as an investment adviser.

20. **Registration.**—(1) Any person who is eligible for registration under rule 19 as an investment adviser may make an application in Form III to the Authority for registration under these rules.

(2) An application under sub-rule (1) shall, besides the other document referred to in Form III, be accompanied by an undertaking that the company will at all times maintain a net capital balance in the capital account of a amount which is not less than one lac rupees.

(3) The Authority, if it is satisfied after such enquiry and after obtaining such further information as it may consider necessary,—

- (i) that the applicant is eligible for registration ; and

*• X • omitted by notification No- SRO 553 (1) /84 dated 13
Added by notification No- SRO 635 (1) /84 dated 11.*

76 INVESTMENT COMPANIES AND INVESTMENT ADVISERS' RULES, 1971

- (ii) that it would be in the interest of the capital market so to do, to grant a certificate of registration to such person in Form IV.

21. Maintenance of books of accounts etc.—(1) Every investment adviser shall maintain such books of accounts and other records as shall depict a true and fair picture of its state of affairs, including—

- (a) journals, cash book and other records of original entry forming the basis of entry in any ledger ;
- (b) ledgers (or other comparable record) reflecting asset, liability, income and expense ;
- (c) ledgers (or other comparable record) showing securities in the portfolio ;
- (d) record of transactions with banks ;
- (e) record of the meetings of the board of directors ; and
- (f) original record of all reports, analysis and memoranda containing investment advice distributed.

(2) Such books of accounts and other records shall be preserved for a period of not less than five years.

22. Submission of annual report to Authority.—Every investment adviser shall submit to the Authority an Annual report, together with a balance-sheet and income and expenditure account and the auditor's report, within six months of the close of its year of account.

23. Enquiry.—(1) The Authority may cause an enquiry to be made by any person appointed in this behalf into the affairs of any investment adviser registered under these rules or any of its directors, managers or other officers.

(2) Where an enquiry under sub-rule (1) has been undertaken every director, manager or other officer of the investment adviser to which or to whose director, manager or other officer the enquiry relates and every other person who has had any dealing with such investment company, investment adviser, director, partner, manager or officer shall furnish such information in his custody or power or within his knowledge relating to or having bearing on the subject-matter of the enquiry as the person conducting the enquiry may by notice in writing require.

(3) The person conducting an enquiry under sub-rule (1) may call for, inspect and seize books of account and documents in possession of any such investment adviser or person.

24. Cancellation of registration.—(1) Where the Authority is of the opinion that an investment adviser has contravened any provision, or has otherwise failed to comply with any requirement, of the Ordinance or of any rule or direction made or given thereunder, the Authority may, if it considers necessary in the public interest so to do by order in writing,—

- (a) cancel the registration of the investment adviser ; or
- (b) remove the investment adviser from the office of investment adviser of an investment company :

Provided that no such order shall be made except after giving the investment adviser an opportunity of being heard.

(2) An investment adviser removed from office under clause (b) of sub-rule (1) shall not be entitled to or be paid any compensation or damages for loss of termination of office

(3) An investment adviser of an investment company who is removed from office under clause (b) of sub-rule (1) shall not be appointed to such office of that company until after the expiration of a period of five years from the date of such removal.

(4) Where the investment adviser of an investment company is removed from that office under clause (b) of sub-rule (1) no director or officer of the investment adviser shall hold the office of director of the investment company or any other office connected with the conduct or management of the affairs of the investment company, until after the expiration of a period of five years from the date of such removal.

(5) Where the investment adviser is removed from office under clause (b) of sub-rule (1) the Authority may, by order in writing, appoint a person, hereinafter referred to as the Administrator, to manage the affairs of the investment company subject to such terms and conditions as may be specified in the order.

(6) The Administrator shall receive such remuneration from the investment company as the Authority may determine.

(7) The management of the affairs of the investment company shall, on and from the date of appointment of the Administrator, vest in him.

(8) If at any time it appears to the Authority that the purpose of the order appointing the Administrator has been fulfilled, it may permit the investment company to appoint another person to the office of investment adviser ; and, on the appointment of such investment adviser, the Administrator shall cease to hold office.

THE SCHEDULE

FORM I

[See rule 5 (1)]

FORM OF APPLICATION FOR REGISTRATION AS AN INVESTMENT COMPANY

To

*The Corporate Law Authority,
Government of Pakistan,
Islamabad.

Dear Sir,

We hereby apply for the registration of.....
(Name of Investment Company)

under rule 5 of the Investment Companies and Investment Advisers Rules, 1971.

2. An undertaking (in original) from the investment adviser in terms of rule 5 (2) of the aforesaid Rules and four copies of each of the following documents are enclosed :—

- (i) Memorandum and Articles of Association.
- (ii) Investment Advisory Contract.
- (iii) Custodian Agreement.
- (iv) Underwriting Agreement.

3. We hereby undertake to take all steps necessary to have the securities issued by us listed on a stock exchange.

4. Necessary information required in the annex to this form is furnished. We undertake to keep the information up-to-date at all times.

Yours faithfully,

*Signature of the Secretary or
a director of the applicant
company.*

*Substituted by Notification No. S.R.O. 1196 (I)/83, dated 20-12-83.

1. Name, address and telephone number(s) of the Company.
2. Date and place of incorporation
3. Names and addresses of directors, distinguishing between promoter directors and other directors
4. Whether any director has been convicted of fraud or breach of trust.
5. Whether any director has been adjudicated as insolvent or has suspended payment or has compounded with his creditors.
6. Names and address of officers and employees.
7. Whether any officer or employee has been convicted for fraud or breach of trust.
8. Whether any officer or employee has been adjudicated as insolvent or has suspended payment or has compounded with his creditors.
9. Names of the directors, officers and employees of the investment company and those of the investment adviser thereof who are members of a stock exchange.
10. Director's interest, direct or indirect, in any other investment company.
11. Previous experience of the promoters/directors in the investment field.

80 INVESTMENT COMPANIES AND INVESTMENT ADVISERS RULES, 1971

- 12. The financial standing of the promoters/directors (Attach proof, if any).
- 13. (a) Authorised capital of the company
- (b) Part of such capital proposed to be raised through public offer.
- 14. Name, address and telephone number of the investment adviser
- 15. Name and address of the custodian
- 16. Name and address of the underwriter.
- 17. Financial standing and resources of the underwriter.

FORM II

[(See rule 5 (3))]

CERTIFICATE OF REGISTRATION AS AN INVESTMENT COMPANY
CORPORATE LAW AUTHORITY*

Islamabad, the

19

The Corporate Law Authority* having considered the application for registration under rule 5 of the Investment Companies and Investment Advisers Rules, 1971, by.....

(Name of the investment company)

and being satisfied that the said.....

(Name of the investment company)

is eligible for registration and that it would be in the interest of the capital market so to do, hereby grants, in exercise of the powers conferred by rule 5 of the Investment Companies and Investment Advisers Rules, 1971, registration to.....
.....subject to the conditions stated

(Name of the investment company)

herein below or as may be prescribed or imposed hereafter.

2. The draft agreement between.....

(Name of the investment company)

*Substituted by Notification No. S.R.O. 1196(I)/83, dated 20-1-1983.

INVESTMENT COMPANIES AND INVESTMENT ADVISERS RULES, 1971 81
and.....is approved subject to the following
(Name of the investment adviser)

conditions :—

3. The appointment of.....is hereby approved subject
(Name of custodian)

to the following conditions :—

4. The appointment of.....is hereby
(Name of the investment adviser)

approved subject to the following conditions :—

.....
Signature of the officer.

FORM III

[See rule 20 (1)]

FORM OF APPLICATION FOR REGISTRATION AS INVESTMENT ADVISER

To

The Corporate Law Authority,
Government of Pakistan,
Islamabad.

Dear Sir,

We hereby apply for the grant of registration of.....
(Name of Investment adviser)
under rule 20 of the Investment Companies and Investment Advisers Rules, 1971.

2. Four copies of the Memorandum and Articles of Association are enclosed.

3. We hereby undertake to maintain at all times a net capital balance in the capital account of an amount which is not less than one lac rupees.

4. Necessary information required in the annex to this form is furnished. We undertake to keep this information up-to-date at all times.

Yours faithfully,

Signature of the Secretary or
a director of the applicant.

*Substituted by Notification No. S.R.O. 1196(I)/83, dated 20-12-1983.

1. Name, address and telephone number(s) of applicant.
2. Names and addresses of directors.
3. Whether any director has been convicted of fraud or breach of trust.
4. Whether any director has been adjudicated as insolvent or has suspended payment or has compounded with his creditors.
5. Names and address of officers and employees.
6. Whether any officer or employee has been convicted for fraud or breach of trust.
7. Whether any officer or employee has been adjudicated as insolvent or has suspended payment or has compounded with his creditors.
8. Whether any director or officer has any interest in any investment company.
9. What is the financial standing of the directors.
10. Give a brief description of the kind of investment advisory services proposed to be provided, the organizational set up, previous professional experience of directors/officers.

FORM IV

[See rule 20 (3)]

CERTIFICATE OF REGISTRATION AS AN INVESTMENT ADVISER
CORPORATE LAW AUTHORITY*

Islamabad, the 19

The Corporate Law Authority* having considered the application for registration under rule 20 of the Investment Companies and Investment Advisers Rules 1971. by.....and being satisfied that the said.....

(Name of adviser)

(Name of adviser)

is eligible for registration and that it would be in the interest of the capital market so to do, hereby grants, in exercise of the powers conferred by rule 20 of the Investment Companies and Investment Advisers Rules, 1971, registration tosubject to the conditions stated herein below

(Name of the adviser)

or as may be prescribed or imposed hereafter.

.....
Signature of the officer.

*Substituted by Notification No. S.R.O. 1196(I)/83, dated 30-12-83.

STATUTORY NOTIFICATIONS

N-1

**COMMENCEMENT OF THE SECURITIES AND EXCHANGE
ORDINANCE, 1969**

NOTIFICATION

26th October, 1970

S.R.O. 259 (I)|70.—In exercise of the powers conferred by sub-section (3) of section 1 of the Securities and Exchange Ordinance, 1969 (XVII of 1969) the Central Government is pleased to appoint the first day of November, 1970 to be the date on which the said Ordinance shall come into force.

**DELEGATION OF POWERS TO CHAIRMAN AND MEMBER
OF THE AUTHORITY**

NOTIFICATIONS

dated 10th September, 1981

S.R.O. 1023 (I)|81.—In exercise of the powers conferred by section 28 of the Securities and Exchange Ordinance, 1969, (XVII of 1969) the Federal Government is pleased to direct that all powers and functions of the Federal Government under sections 26, 27 and 29 of the said Ordinance shall, subject to such directions relating to questions of policy as may be issued from time to time by the Federal Government, be exercised or performed also by the Chairman, Corporate Law Authority.

S.R.O. 1024 (I)|81.—In exercise of the powers conferred by section 28 of the Securities and Exchange Ordinance, 1969, (XVII of 1969) and in supersession of the Ministry of Finance Notification No. SRO. 261 (I)|70, dated the 26th October, 1970, the Federal Government is pleased to direct that all powers and functions of the Federal Government under the said Ordinance, other than those under sections 26, 27, 28, 29 and so much of section 33 thereof as relates to the making of rules for regulations of the business mentioned in section 32 thereof, shall, subject to such directions relating to questions of policy as may be issued from time to time by the Federal Government, be exercised or performed also by the Member, Corporate Law Authority (Corporate Law Wing).

**EXEMPTION GRANTED TO THE NATIONAL INVESTMENT (UNIT)
TRUST LIMITED FROM THE OPERATION OF THE PROVISIONS OF
SECTION 11 AND 14 THE SECURITIES AND EXCHANGE ORDINANCE, 1969.**

NOTIFICATION

Dated 6th March, 1972

S. R. O. 137 (I)|72.—In exercise of the powers conferred by section 29 of the Securities and Exchange Ordinance, 1969 (XVII of 1969), the Central Government is pleased to exempt the National Investment (Unit) Trust Limited from the

STATUTORY NOTIFICATIONS

operation of the provisions of section 12 and 14 of the said Ordinance in so far as they relate to securities other than the securities of an issuer of which an officer, representative or nominee of the National Investment (Unit) Trust Limited is a director.

[No. 20 (32) CF/ISS/71.]

EXEMPTION GRANTED TO THE INVESTMENT CORPORATION OF PAKISTAN FROM THE OPERATION OF THE PROVISIONS OF SECTION 11 OF THE SECURITIES AND EXCHANGE ORDINANCE, 1969.

NOTIFICATION

Dated, 21st January, 1980

S. R. O. 94 (I)/80.—In exercise of the powers conferred by section 29 of the Securities and Exchange Ordinance, 1969 (XVII of 1969), the Federal Government is pleased to exempt the Investment Corporation of Pakistan from the operation of the provisions of section 11 of the said Ordinance in so far as the said provisions require an issuer to transmit the profit and loss account and balance sheet referred to in rule 13 of the Securities and Exchange Rules, 1971.

[No. F. 8 (25)-Inv. 1/79]

EXEMPTION GRANTED TO THE PAKISTAN NATIONAL SHIPPING CORPORATION FROM DISCLOSURE REQUIREMENTS UNDER THE SECURITIES AND EXCHANGE ORDINANCE, 1969.

NOTIFICATION

Dated 6th February, 1984

S. R. O. 139 (I)/84.—In exercise of the powers conferred by section 29 of the Securities and Exchange Ordinance, 1969 (XVII of 1969), read with the Finance Division Notification S. R. O. 1023 (I)/81, dated 10th September, 1981, Chairman, Corporate Law Authority is pleased to grant exemption to the Pakistan National Shipping Corporation from disclosing, in their Profit and Loss Accounts, their gross freight income and the rebates allowed by them to shippers.

[No. 3 (811) CF/ISS/78.]

CIRCULARS

Circulars issued since 1971 and which are still effective have been updated and included in this Manual. Circulars that have been excluded from this Manual still remain in force to the extent they are not contrary to the laws|rules|instructions. For the convenience of the users, it is here mentioned that these Circulars relate to the following subjects :—

- (a) Beneficial Ownership—Circulars No. 1 and 2 of 1971, Part of Circular No. 6 of 1972 and Circulars No. 2 of 1973, 2 of 1974 and 1 of 1976.
- (b) Annual and Half Yearly Accounts—Circulars No. 4 of 1973, 1 of 1980 and 4 of 1983.
- (c) Disclosure requirements of the IInd Schedule—Updated Circulars No. 1 of 1972, Circulars No. 1 of 1981, 3 and 6 of 1983, and 1 of 1984.
- (d) Shares registered in the names of shareholders belonging to Bangladesh—Circulars No. 2 and 5 of 1972, 3 of 1973, 1 and 2 of 1975.
- (e) Miscellaneous matters—Part of Circular No. 6 of 1972, Circulars No. 1 of 1982, 1, 2 and 5 of 1983.

CIRCULAR RELATING TO "BENEFICIAL OWNERSHIP"

CIRCULAR No. 1 of 1971

SUBMISSION OF RETURN BY DIRECTORS, OFFICERS AND 10 PER CENT BENEFICIAL SHAREHOLDERS.

Section 12 of the Securities and Exchange Ordinance, 1969, read with Rule 14 of the Securities and Exchange Rules, 1971, lays down that the following persons shall file a return in Form IV with the Authority:—

- (i) Any director of the issuer who is or has been the beneficial owner of any class of its equity securities;
- (ii) any officer of the issuer (the expression "Officer" has been defined to include the managing agents, manager, secretary or accountant of the issuer and any other person who by virtue of his office may be in possession of any material information with regard to the affairs of the issuer) who is or has been the beneficial owner of any class of its equity securities; and
- (iii) any person who is directly or indirectly the beneficial owner of more than 10 per cent of any class of equity securities of an issuer.

2. The expression 'equity security' has been defined, in the Ordinance, to mean any stock or transferable share (preferred or common) or similar security representing ownership; any security convertible, with or without consideration, into a security carrying any warrant or right to subscribe to or purchase such security; any such warrant or right itself; and such other security as may be prescribed.

3. It will be noticed that the directors as well as the officers have to file the return even when they own less than 10 per cent of the equity securities. For these two categories, filing of return is compulsory even when they own one share.

4. A person who by virtue of his office comes to possess material information with regard to the affairs of the issuer will be treated as an officer under the Securities and Exchange Rules, 1971. The definition brings an auditor of the issuer within its scope because the auditor has access to the books of accounts which contain material information about the affairs of the issuer. The auditor is, therefore, as much an insider as the directors of the issuer.

5. The other expression which needs elucidation is that of the 'beneficial owner'. This expression has not been defined in the Ordinance or the Rules and it will have to be construed with reference to the facts of each case. As the term denotes, that person will be treated as a beneficial owner who is

entitled to the benefits accruing from the ownership of the securities. In other words, in a situation when the ownership of the securities is held in the name of a nominee, the person who is the ultimate recipient of the benefit of ownership is the beneficial owner. A person who is the nominee of the real owner is not the beneficial owner. A broker of the Stock Exchange or a bank which is holding securities in its name on behalf of a client is not the beneficial owner. A person shall normally be regarded the beneficial owner of the securities held in the names of his family members who are wholly dependent upon him. If, however, such a person claims that the securities held in the name of his dependents are not beneficially owned by him and that any gain made on the purchase and sale or the sale and purchase of such securities is not required to be tendered to the company under section 14 of the Ordinance, he should make a representation to this effect to the Authority substantiating his claim, where available, with documentary evidence.

6. If in an individual case, there is any doubt about the requirement of filing of return by a beneficial owner, he is free to place the facts of the case before the Authority and obtain a ruling in the matter.

CIRCULAR No. 2 OF 1971

CALCULATION OF TENDERABLE GAIN

Section 14 of the Securities and Exchange Ordinance, 1969 lays down that where any director or officer of an issuer of a listed equity security or any person who is directly or indirectly the beneficial owner of not less than ten per cent of such securities makes any gain by the purchase and sale, or the sale and purchase, of any such security within a period of less than six months, such director or officer or beneficial owner shall make a report and tender the amount of such gain to the issuer.

2. Rule 14 of the Securities and Exchange Rules, 1971, requires the reporting of beneficial ownership of securities by such director, officer and 10 per cent holder in Form IV. The reports in Form IV received so far indicate that the provisions of section 14 have not been fully understood. It is the purpose of this circular to clarify some of the aspects of these provisions.

3. Section 14 requires that if any gain is made from the purchase and sale, or from the sale and purchase, of an equity security within a period of less than 6 months such gain has to be reported and tendered to the issuer of such security. Thus if 100 shares are sold @ Rs. 16.30 on 15-1-1971 and 200 shares are purchased @ Rs. 14.50 on 13-7-1971 and again 100 shares are sold @ Rs. 15.50 on 11-1-1972, the tenderable gain will be both in respect of the purchase on 13-7-1971 as well as the sale on 11-1-1972. On 13-7-1971, 200 shares were

purchased @ Rs. 14.50 and in the preceding period of less than 6 months 100 shares were sold on 11-1-1971 @ Rs. 16.30. The tenderable gain would thus be the difference between Rs. 16.30 and Rs. 14.50 per share.

4. Similarly, tenderable gain would arise in respect of the sale transaction of 11-1-1972. The matching purchase during the preceding period of less than 6 months being @ Rs. 14.50, tenderable gain would be the difference of Rs. 15.50 and Rs. 14.50 per share. It will thus be seen that tenderable gain would arise in respect of—

- (i) a sale and a subsequent purchase in any period of less than 6 months ;
- (ii) a purchase and subsequent sale in any period of less than 6 months.

5. In computing the gain some persons have adopted a rule by which the purchase and sale price is averaged over the 6 months period. Others have, for the purposes of matching transactions, adopted the first-in, first-out rule. Although these rules are used for various other purposes in business circles, both are in-applicable in the context of section 14.

6. The gain made should be determined by matching the purchases at lowest rates against the sales at highest rates within the 6 month period. The amount recoverable under section 14 has to be calculated with respect to every transaction and represents the difference between the purchase price and the sale price for any purchase and sale, or sale and purchase, ^{occurring} ~~occurring~~ within less than 6 months of each other, disregarding all other transactions. All such transactions producing profits would result in tenderable gain and any transactions producing losses during the same period shall be ignored in the light of sub-rule (3) of rule 15 of the Securities and Exchange Rules, 1971. The averaging of the purchase price and the sale price during the period is not a correct basis of computation. What this basis would in effect do is to allow as off-sets losses incurred by such trading. It is the purpose of the law to discourage making of short-swing gains by directors, officers and 10 per cent holders, who stand in a fiduciary relationship with their company, through transactions within a period of six-months. This treatment is designed to prevent conflict of interest on the part of the insider in the faithful performance of his activities. The lowest-in, highest-out rule would meet the needs of this statutory purpose.

7 A view has been expressed that for the purpose of matching sales and purchases, the securities sold should be the same as were purchased during the period. This view is not correct. Securities are fungible and it would, therefore, not be necessary ever to show that the particular security which is sold is

11. Another question raised is as to whether the 10 per cent holder should be a 10 per cent holder at the time of the purchase as well as of the sale in order to attract the provisions of section 14 of the Ordinance. This section makes it incumbent on a 10 per cent holder to tender any gain made by the purchase and sale, or sale and purchase, within a period of less than six months. He has, therefore, to be a ten per cent owner either at the time of purchase or sale to attract the provisions of section 14.

PART OF CIRCULAR No. 6 OF 1972

AMENDMENT IN RULE 14 OF THE SECURITIES AND EXCHANGE RULES, 1971.

The Authority has amended rule 14 of the Securities and Exchange Rules, 1971 *vide* notification No. S.R.O. 1238 (I) 72, dated the 19th December, 1972 published in the Extraordinary Gazette of Pakistan dated the 21st December, 1972. This circular aims at explaining the change made by the amendment in the following paragraphs for the guidance of all concerned :

Rule 14.—(a) The existing rule requiring filing of returns by insiders in Form IV has been substituted by a new rule. Under the new rule insiders (*viz.*, directors, officers and beneficial owners, directly or indirectly, of more than ten per cent of any class of the equity securities of an issuer) will be required to file in the revised Form IV returns of the beneficial ownership whenever they acquire the shares and thereafter whenever there is a change in the holdings.

(b) The new rule also requires that particulars of change of beneficial ownership of insiders who have previously filed a return in Form IV or who are required to file such return under the rules shall be filed in Form IVA. The return showing particulars of change of beneficial ownership. Form IVA is to be filed within 15 days of the date of each change.

2. It will be noted that under the new Rule 14 two types of forms have been prescribed, namely:—

(a) *Form IV.*—For reporting the beneficial ownership of an insider.

(b) *Form IVA.*—For reporting a change in beneficial ownership by virtue of a purchase, sale, gift, receipt of bonus or right, or otherwise to be filed within fifteen days of every such change.

3. The Authority has so far taken a lenient view of delays and defaults in the filing of such returns. Now, that the cause of this grievance has been removed by the new rule, it has been decided that delays and defaults shall in future be dealt with sternly under the law. All concerned, are therefore, advised to file the returns under the new rule within time.

the one which was purchased. Purchases and sales would be matchable so long as the securities involved in the purchase and sale are of the same class.

8. The following example relative to a six month period will illustrate what has been stated in the preceding paragraphs:—

| Date | No. of shares | | | Purchase price | Sales price |
|---------|---------------|----|----|----------------|-------------|
| | | | | | |
| 28-2-71 | .. | .. | .. | 200/14.80 | — |
| 7-3-71 | .. | .. | .. | 100/15.20 | — |
| 15-3-71 | .. | .. | .. | 100/15.00 | — |
| 10-4-71 | .. | .. | . | — | 100/15.70 |
| 15-5-71 | .. | .. | .. | — | 100/15.15 |
| 3-6-71 | .. | .. | .. | — | 100/15.10 |
| 31-7-71 | .. | .. | .. | — | 100/15.00 |

9. As earlier noted, purchases at lowest prices are matched with sales at highest prices during the period. Transactions which are once matched are cancelled and do not re-enter the computation. Thus the purchase of 200 shares @ Rs. 14.30 per share on 28-2-1971 will be matched with the sale of 100 shares @ Rs. 15.70 per share on 10-4-1971 and another 100 shares @ Rs. 15.15 per share on 15-5-1971. The resulting gain would be Rs. 125 (Rs. 3085 minus Rs. 2960). Next, the purchase of 100 shares @ Rs. 15.00 on 15-3-1971, will be matched with the sale of 100 shares @ Rs. 15.10 on 3-6-1971. The resulting gain in this case would be Rs. 0.10 per shares (Rs. 15.10 minus Rs. 15.00). The remaining sale transaction @ Rs. 15.00 on 31-7-1971 will then be matched with the purchase @ Rs. 15.20 on 7-3-1971. This will not result in any gain and will, therefore, be ignored.

10. Whether ownership of a share has been the result of a "purchase" operation or otherwise would depend on the facts of each case. Bonus shares distributed by an issuer to its shareholders would not be a purchase for the purposes of section 14. Similarly no purchase would be involved in the mere offer by an issuer to the existing shareholders for right shares. The sale of the offer of an allotment letter of "right" shares would be ignored for the purpose of determining and tenderable gain. But the acceptance of the offer of "right" and subsequent acquisition of shares would obviously constitute a purchase. Purchase of "right" allotment letters from the market would also be "purchase" of equity securities for the purposes of section 14.

CIRCULAR No. 2 OF 1973**FILING OF RETURNS WITH THE CORPORATE LAW AUTHORITY**

It has been noticed that returns required to be filed under the Securities and Exchange Rules by the companies or their directors or principal shareholders are filed belatedly on the plea that the concerned director was out of the country at the time the return was due to be filed. This Authority has in all such previous cases condoned the late filing of the returns.

2. It is the duty of the company or the director or the principal shareholder, as the case may be, to arrange to file the returns within the time prescribed under the Rules. Failure to file the returns within time is penalizable and the excuse that a director was abroad at the time of filing of the return is untenable. In future, therefore, it has been decided that extensions will not be granted by this Authority for filing returns on the excuse that the concerned director has gone abroad. Returns which are received late will attract the punitive provisions of the law. Where a director of the company proceeds abroad, he should invariably make arrangements for filing the returns within time which become due during the period of his absence abroad.

CIRCULAR No. 2 OF 1974**RETURN OF BENEFICIAL OWNERSHIP REQUIRED TO BE FILED UNDER SECTION 12 OF THE SECURITIES AND EXCHANGE ORDINANCE, 1969 AND RULE 14 OF THE SECURITIES AND EXCHANGE RULES, 1971—CLARIFICATIONS REGARDING.**

Attention is invited to the provisions of section 12 of the Securities and Exchange Ordinance, 1969 which require certain persons to file such returns pertaining to their beneficial ownership in such form and at such times as may be prescribed. Clarification of the persons upon whom duty is cast by this section to file the return has already been issued *vide* this Authority's Circular No. 1 of 1971. To report, the following persons are required to file the returns:—

- (i) any director of the issuer who is or has been the beneficial owner of any class of its listed equity securities;
- (ii) any officer of the issuer (the expression "officer" has been defined to include the managing agents, manager, secretary or accountant of the issuer and any other person who by virtue of his office may be in possession of any material information with regard to the affairs of the issuer) who is or has been the beneficial owner of any class of its listed equity securities; and

(iii) any person who is, directly or indirectly, the beneficial owner of more than 10 per cent of any class of the listed equity securities of an issuer.

2. The form of the various returns and the times at which the returns have to be filed with this Authority have been prescribed by rule 14 of the Securities and Exchange Rules, 1971.

3. In spite of earlier clarifications a view seems to persist that directors/officers are not required to file the returns of beneficial ownership unless they hold more than 10 per cent of the listed equity securities of the company of which they are the directors/officers. This is an erroneous view. As has already been explained in this Authority's Circular No. 1 of 1971, a director/officer has to file the return if he beneficially owns even one share.

4. Certain cases have come to this Authority's notice where the directors do not beneficially own any shares in the company but are directors by virtue of the holdings of third parties. In such situations some of the nominee directors have been filing the returns stating, in column 5 (b) of Form IV, that they represent the beneficial ownership of a third party. In a few cases, such beneficial owners have been filing the returns stating therein that they are represented by a nominee director. However, no uniform practice is being followed either by such directors or such beneficial owners with regard to the filing of the return. In consonance with the scheme of section 12, it is the responsibility of the beneficial owner to file the requisite return with this Authority in the prescribed form, invariably indicating therein the name of the nominee director who represents the beneficial owner on the board of directors of the company.

5. In some cases where notice has been taken by the Authority for belated filing of the return, the returnee has taken the plea that since the shares were in the process of registration he did not consider that it was required by law that he should file the return until registration was effected in the company's records. This view is not correct. For the purpose of filing the return of beneficial ownership, the effective date is the date of acquisition of shares and not the date of registration of the transfer in the books of the company. The returnees are, therefore, advised to report change in their beneficial ownership, as required under rule 14 (4), within a period of 15 days of the acquisition of the shares irrespective of the actual date of their registration.

6. In some cases returns in Form IV have been received from the company instead of the director concerned. It is clarified that filing of the return is the personal responsibility of the director and not of the company.

7. It has been noticed that in some cases the return is signed by a someone other than the person whose responsibility it is to file the return. Attention in this connection is invited to the declaration in the prescribed Form IV of the return which a returnee is personally required to sign. It should, therefore, be noted that the return should invariably be signed by the person referred to in paragraph 1 of this Circular whose duty it is to file the return.

8. Correspondence with the directors is being sent by this Authority at the address of the company concerned. Should, however, a director wish to correspond with this Authority at any other address, he may so indicate in the said return.

9. It is the experience of this Authority that Changes in the directorship are not notified to us by the company. This has, in some cases, resulted in infructuous correspondence with the directors who had given up their positions in the company. To obviate such situations, it is advised that whenever a person ceases to be a director or whenever a person joins a company as director, the change should be communicated to this Authority by the concerned company within a period of 15 days of the change taking place.

CIRCULAR No. 1 OF 1976

RETURN OF BENEFICIAL OWNERSHIP IN FORM IV TO BE FILED BY MORE THAN 10 PER CENT SHAREHOLDERS.

Section 12 of the Securities and Exchange Ordinance, 1969 requires every director/officer of a company who beneficially owns any number of shares to file each returns of beneficial ownership as laid down in Rule 14 of the Securities and Exchange Rules 1971 [as amendment *vide* Notification No. S. R. O. 1238 (1)/72, dated 19th December, 1972]. Any other person who is directly or indirectly beneficial owner of more than 10 per cent shares of the paid-up capital of the company is also required under the aforementioned Section/Rule to file these Returns regularly.

2. It has been observed that persons who are beneficial owners of more than 10 per cent shares of the company are not regular in filing of the said Returns. In order to ensure maximum compliance with the legal requirements all companies are requested to henceforthwith furnish to this Authority, alongwith the shareholders list to be filed by them under Rule 12 (6) of the Securities and Exchange Rules, 1971, a separate list of only those members of the company whose beneficial holding is more than 10 per cent of the paid-up capital of the company. The list should contain names, addresses and number of shares held by each one of them as on the date of preparation of list.

CIRCULARS RELATING TO ANNUAL AND HALF YEARLY ACCOUNTS

CIRCULAR No. 4 OF 1973

FURNISHING OF ANNUAL REPORT UNDER RULE 12 (4) OF THE SECURITIES AND EXCHANGE RULES, 1971.

Attention is invited to Rule 12 (4) of the Securities and Exchange Rules, 1971, under which every issuer is required to furnish the annual report together with balance sheet and profit and loss account to shareholders, the Authority and the Stock Exchange(s) at least 14 days before the annual general meeting of the shareholders is scheduled to be held.

2. In course of time it has been noticed that usually the issuers despatch the annual accounts so late that these do not reach this Authority, shareholders and Stock Exchange(s) at least 14 days before the scheduled date of annual general meeting. It has, therefore, been felt necessary to clarify that each issuer is required to despatch these reports well in time so as to reach the Authority, shareholders and Stock Exchange(s) at least 14 days before the scheduled date of the annual general meeting.

3. It is desired that in future strict compliance of this rule be made, failing which severe penal action will be taken against the defaulters.

CIRCULAR No. 1 OF 1980

SUBMISSION OF HALF YEARLY ACCOUNTS

Rule 13 of the Securities and Exchange Rules, 1971 provides that every issuer shall, within two months of the close of the first half of its year of account, prepare and transmit to the stock exchange or exchanges on which its securities are listed, to its security holders and to the Authority a Profit and Loss Account for, and a Balance Sheet as at the end of that half year, whether audited or otherwise.

2. It has been observed that while most of the companies transmit their half yearly accounts in time in some cases neither the accounts nor the requests for extension are received within time. The purpose of timely disclosure of financial affairs of the companies to the shareholders as well as to the government and the stock exchanges is lost, if the disclosure is not made timely.

3. Time being the essence of this requirement, grant of extension is not a casual or routine matter. Attention of all concerned is invited to para 3 of the Authority's Circular No. 5 of 1973 dated 19th December, 1973 wherein it was laid down that the time for filing of the returns having been extended from one to two months, application for extension shall not be entertained.

*omitted by Notification No. SRO 1234(1)/85
dated 12/12/85*

4. The Authority expects that in future strict compliance of this rule shall be made.

CIRCULAR No. 4 OF 1983

INCORPORATION OF PATTERN OF SHAREHOLDING AND THE STATEMENT OF CHANGES IN THE FINANCIAL POSITION|STATEMENT OF SOURCES AND APPLICATION OF FUNDS IN THE ANNUAL REPORTS OF THE LISTED INSURANCE COMPANIES.

Section 11 (1) of the Securities and Exchange Ordinance, 1969 read with Rule 12 (1) of the Securities and Exchange Rules, 1971, lays down that an issuer of a listed security shall furnish to the Stock Exchange(s), security holders and to the Federal Government an annual report which shall include a balance sheet, profit and loss account, changes of financial position statement or sources and application of funds statement and a pattern of shareholding statement. Rule 12 (2-A) lays down that the pattern of shareholding statement included in the annual report shall be in "Form-A". Rule 12 (2) lays down that an issuer shall prepare a balance sheet and a profit and loss account in accordance with the requirements laid down in the Second Schedule to the Rules except in the case of an issuer which is required to prepare a balance sheet and profit and loss account in a form prescribed by, *inter alia*, the Insurance Act, 1938.

From the latest annual reports published by the Insurance Companies, it has been noted that most of the companies have not incorporated statement of pattern of shareholding and the statement of changes in financial position or sources and application of fund statement. This they may have done on the assumption that the afore-mentioned requirements are not applicable to them. In this connection it is clarified that the pattern of shareholding statement and

the statement of sources and application of fund or the changes in financial position statement form part of the Annual Report. Insurance Companies are exempt only from the requirement of the Second Schedule relating to the preparation of balance sheet and the profit and loss account. They are not exempt from the other two statements.

In view of the above all the listed Insurance Companies are directed to include the statements of pattern of shareholding and of changes in the financial position|sources and application of funds in their annual report in future in accordance with the afore-mentioned provisions of law.

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125

**CIRCULARS RELATING TO DISCLOSURE REQUIREMENTS UNDER
THE 2ND SCHEDULE**

CIRCULAR NO. 1 1972

**CLARIFICATION OF THE TERM "WORKING RESULTS" AS USED IN
PARAGRAPH 7 OF PART III OF THE SECURITIES AND
EXCHANGE RULES—1971**

Rule 12 of the Securities and Exchange Rules, 1971 requires that every listed company shall prepare the annual balance sheet and profit and loss account in accordance with the requirements laid down in the Second Schedule. Paragraph 7 of Part III of the said Schedule specifies that the profit and loss account of the company is to be drawn up as to disclose separately the manufacturing, trading and operational results. In the case of an undertaking having more than one line of business the working results of each line of business are to be shown separately.

2. Enquiries have been received requesting the Authority to clarify the meaning of the expression "working results" used in paragraph 7 of Part III of the Second Schedule. Paragraph 7 reads as below:

3. The profit and loss account shall be so drawn up as to disclose separately the manufacturing, trading and operating results. In the case of manufacturing concern, the cost of goods manufactured shall also be shown. Where an undertaking has more than one line of business the working results of such line of business should be separately given provided the turnover of such line of business exceeds twenty per cent of the total turnover of the company. Value of items exported during the financial year shall also be shown provided such value exceeds twenty per cent of the total turnover of the company.

4. The expression "working results" has not been defined in the Securities and Exchange Rules, 1971. The correct purport of this expression has, therefore, to be sought from the context in which it has been used. According to paragraph 7 a profit and loss account is required to be drawn up by every undertaking which should disclose separately the manufacturing, trading and operational results. In the case of a manufacturing concern the cost of goods manufactured should also be shown. Where, however, an undertaking has more than one line of business the working results of each such line of business should be separately given. Clearly, therefore, the expression "working results" has been used synonymous with the expression "manufacturing, trading and operational results", appearing in the first part of the paragraph. In the case of an undertaking having more than one line of business, separate manufacturing, trading and profit and loss account in respect of each line of business will have to be incorporated (provided the

turnover of such a line of business exceeds 20 per cent of the total turnover) in the accounts required to be prepared and transmitted under rule 12. Such a requirement would also be in conformity with the philosophy of full disclosure which is the basis of the said rule.

CIRCULAR NO. 1 OF 1981

MAKING OF PRIOR YEAR ADJUSTMENT WHILE CALCULATING WORKERS PROFIT PARTICIPATION FUND

Attention is invited to section 3 (1) of the Company's Profit (Workers Participation) Act, 1969 which read as under :—

“ Pay to the fund annually at the close of its accounting year a sum equivalent to two and a half per cent [subsequently enhanced to 5 per cent by para 3 (1) of the Labour Laws Amendment Ordinance, 1975] of its profit during such year's ”.

Para 4 of the Labour Laws (Amendment) Ordinance, 1975 amends the above noted section in the following manner :—

- (a) for the word ‘ pay ’ the words and commas “ subject to adjustments, if any. pay ” shall be substituted ; and
- (b) for the full-stop at the end a colon shall be substituted and thereafter the following “ proviso ” shall be added, namely :—

“ provided that, where the accounts have been audited by an auditor appointed under section 23-B of the Industrial Relations Ordinance, 1969 (XXIII of 1969), the profits shall be assessed on the basis of such audit. ”.

The matter has been considered and it has been decided that making of adjustment, if any, are not conditional upon determination of the profit by an auditor appointed under section 23-B of Industrial Relations Ordinance, 1969 and that it is necessary to take into account the prior year adjustment in the profit and loss account while calculating the Workers Profit Participation Fund thereby giving necessary debit or credit to the fund as the case may be.

All the companies are hereby directed to act in the manner prescribed above while calculating the Workers Participation Fund.

CIRCULAR NO. 3 OF 1983

DISCLOSURE REQUIREMENTS UNDER SECOND SCHEDULE TO THE SECURITIES AND EXCHANGE RESULTS, 1971

The following guidelines are circulated for strict observance :—

I. General

Policy for accounting for deferred taxation be disclosed.

II. Profit and Loss Account

- (a) Provision for liability deferred due to timing differences in respect of income for the year be separately disclosed.
- (b) The amount of provision in (a) above may exclude the tax effects of certain timing differences when :
 - there is reasonable evidence that these timing differences will not reverse for some considerable period (at least three years ahead); and
 - there should also be no indication that after three years these timing differences are likely to reverse.
- (c) Where provision for deferred taxation is written back in a financial year out of the provision for deferred taxation made in the previous years, the amount so written back be shown as a deduction from the gross charge for taxation in respect of the profits for the year.

III. Balance Sheet

- (a) Deferred liability for taxation be disclosed separately as a deferred liability.
- (b) Where the deferred liability for taxation has not been fully provided for, the following shall be disclosed :
 - the extent to which the liability for deferred taxation has not been provided for as of the balance sheet date showing separately the portion thereof relating to the financial year ended on that date; and
 - the reasons for not making the full provision for deferred liability for taxation.
- (c) It appears that for compliance with the requirement in III (b) above, the total amount of deferred tax liability not provided for [inclusive of the tax effect of the timing differences for which no provision has been made referred to in II (b) above] as of the balance sheet date and the portion thereof relating to the financial year should be disclosed.

IV. Capital Reserves

Capital reserves can broadly be categorised as :

- Statutory reserves *i.e.* those reserves which by virtue of statutory provisions are not free for distribution by way of dividend.

- Specific purpose reserves *i.e.* those reserves which by virtue of the decision of the directors are not regarded for the time being, free for distribution as dividend.

The retention of the second category of reserves as 'Capital reserves' is entirely dependent on the directors' decision and the directors can resolve, wherever they wish, to transfer whole or part of such reserves to the Profit and loss appropriation account or to revenue reserves. So long as the directors do not resolve so, it would be appropriate to classify both the 'Specific purposes reserves' and the 'Statutory reserves' as Capital reserves.

It is also recommended that when the purpose for which a 'Specific purpose reserve' has been created by the directors is not self-explanatory by the description thereof *i.e.* Reserve for contingencies the purpose for such reserve be briefly disclosed in the notes to the accounts.

CIRCULAR No. 6 OF 1983

ANNUAL ACCOUNTS—INFORMATION REGARDING PLANT CAPACITY, ACTUAL PRODUCTION ETC.

Reference is invited to sub-paragraph (vii) of paragraph 2 of Part I of the Second Schedule to the Securities and Exchange Rules, 1971, which lays down that, where determinable, the capacity of an industrial unit, actual production and the reasons for shortfall, if any, shall normally be furnished by way of a note to the Annual Statement of Accounts of a company, except in a case where exemption is granted by this Authority in the public interest. This is a mandatory provision and failure to comply with the requirements of this provision is liable to penal action under the Securities and Exchange Ordinance.

2. In case the capacity of an industrial unit is not determinable, and consequently the required information cannot be disclosed, this fact has to be clearly indicated in the notes and explanation given as to why the necessary compliance could not be made. In the absence of any such clarification stating the reasons for non-disclosure of the required information, it would be only natural for the Authority to presume, on part of the concerned company, a wilful default of the aforesaid sub-para (vii), which would render it liable to penal action under the Ordinance. This presumption would be justified in view of the fact that it has in some cases been noted that, even where the capacity of an industrial unit is determinable, the required information has not been disclosed in the statement of accounts.

3. All concerned are, therefore, advised that, where the capacity of an industrial unit is determinable, relevant information under the aforesaid sub-para (vii) should invariably be incorporated in the notes to the Annual Statements of Accounts, where however, the information cannot be furnished because of the capacity of an industrial unit not being determinable, this fact should be clearly indicated in the notes stating the reasons for non-compliance with the requirements of the aforesaid provision.

CIRCULAR No. 1 OF 1984

CALCULATION OF PAYMENTS TO THE WORKERS (PROFIT) PARTICIPATION FUND—SHOULD PAYMENTS TO WORKERS WELFARE FUND BE DEDUCTED WHILE COMPUTING 'PROFITS'.

Attention is invited to this Authority's Circular No. 2 of 1981 dealing with the above matter.

2. The matter has been re-examined by the Federal Government. It is to be noted that the Companies Profit (Worker's Participation) Act, 1968 defines 'profits' as such of the "net profits" as are defined in section 87-C, of the Companies Act, 1913. This latter section allows deduction of all the usual working charges, interest on loans and advances, repairs and outgoings, depreciations, bounties or subsidies received from any Government or from a public body, etc., for calculation of "net profits". Payments made to the Workers Welfare Fund (constituted under the Worker's Welfare Fund Ordinance, 1971) are not usual working charges; nor are they interest, or any other deductible item referred to in section 87-C of the Companies Act, 1913. Hence payments to the Workers Welfare Fund are not a deductible item for computing "net profits" under the Companies Act, 1913, and "profits" under the Companies Profit Worker's Participation) Act, 1968.

3. The Worker's Welfare Fund Ordinance, 1971 allows payments made to the Workers Welfare Fund to be treated as an expenditure for purposes of income-tax-assessment (sub-section 7 of section 4 of the said Ordinance) alone, and not for any other purpose.

4. All companies are advised to keep the above clarifications in mind before calculating the payment to the Workers (Profit) Participation Fund.

5. With the issuance of this Circular this Authority's earlier Circular No. 2 of 1981 stands with-drawn.

**CIRCULARS RELATING TO SHARES REGISTERED IN THE NAMES OF
SHAREHOLDERS BELONGING TO BANGLADESH**

CIRCULAR No. 2 OF 1972

**CHANGE OF ADDRESS OF SHAREHOLDERS. REGISTRATION OF
TRANSFER ETC.**

I am directed to say that several references have been received in this Authority seeking advice as to how to deal with requests received by companies for change of addresses of their shareholders from East Pakistan to West Pakistan and for registration of transfer of shares. In the context of the emergency and occupation of East Pakistan it has now been decided that the following procedure should be adopted by all listed companies in the matter of effecting change of address of stock holders, exchange of certificates against allotment etc., verification of signature of transferors, registration of transfers, and trading in Stock Exchange :—

- A. *Change of addresses.*—Requests for change of addresses from East Pakistan to West Pakistan should be acceded to on fulfilment of the following conditions :—
- (a) stock holders (excepting purdah-observing ladies) now resident at the place of the registered office of the company should come personally and sign such requests in the presence of authorised officers of the company.
 - (b) stock holders now resident outside such place as well as purdah-observing ladies resident in such place who may not wish to come in person should produce a certificate from their bankers, or a first class Magistrate, to the effect that they have migrated from East Pakistan and are now settled in West Pakistan. The certificate should also show the present address.
- B. *Exchange of certificates against allotment letters/renunciation receipts/transfer receipts.*—The delivery of the certificates against allotment letters|renunciation receipts|transfer receipts should be effected, if,—
- (a) the address of the stock holder has already been changed accordingly as at 'A' above from East Pakistan to West Pakistan ; or
 - (b) the stock holder comes in person and signs in presence of authorised officers of the company ;

(c) the stock holder who is now resident outside the place of the registered office of the company, as well as a purdah-observing lady who is now in that place but does not wish to come in person, produces a certificate as required for change of address mentioned above.

C. *Verification of signatures on transfer deeds.*—The same procedure as applies to exchange of certificates should be followed in the matter of verification of signatures on transfer deeds.

D. *Transfers.*—Requests for transfer shares etc. registered in the name of a person resident in East Pakistan to the name of another person should not be acceded to, unless,—

(a) the address of the transferor has already been changed from East Pakistan to West Pakistan, or

(b) the transferor has earlier confirmed his|her presence in West Pakistan by coming to the company in person and signing in presence of authorised officers, or

(c) the transferor has produced the certificate of his|her residence in West Pakistan as required for change of address mentioned above, or

(d) the shares etc. were purchased prior to the closure of Stock Exchange on the 4th December, 1971 and the relative purchase memo duly attested by Karachi|Lahore Stock Exchange is produced, or

(e) the shares etc. were purchased in East Pakistan prior to the 4th December, 1971 and the purchaser produces purchase memo issued by a registered broker of the Dacca Stock Exchange or executes an indemnity bond, or

(f) the shares etc. were purchased in a private deal, and the purchaser furnishes an indemnity bond.

2. All listed companies which have any shares on the members' register as on the date of this letter bearing East Pakistani addresses should transmit a list of such shares together with their respective distinctive members to the Secretary, Karachi Stock Exchange and Lahore Stock Exchange. The list shall be transmitted within a fortnight of the aforesaid date. The stock exchanges

are being advised, when they reopen, to suspend trading in the shares included in such lists. As and when a change|transfer is effected by the company, the same shall be notified to the stock exchanges and the stock exchanges will strike out the relevant shares from the list. Thereafter the shares so struck out will become transactable in the normal manner subject to the next succeeding paragraph.

3. Whenever a Transfer Deed pertaining to any shares in respect of which a change of address or transfer referred to above is presented for verification of signature to the company an endorsement to the effect that a change has been effected in the company's record in accordance with these instructions shall be made on the transfer deed under the hand of a director of the company.

CIRCULAR No. 5 OF 1972

CHANGE OF ADDRESSES AND REGISTRATION OF TRANSFERS

Detailed instructions were issued in this Authority's Circular No. 2 of 1972, dated the 15th May, 1972 regarding effecting of change of addresses of shareholders from East to West Pakistan and the registration of transfers thereof. Since the issue of Circular No. 2 many points have been raised by various institutions in relation to the aforesaid instructions. The points have been considered in this Authority and the following further instructions are being issued.

2. A question has been raised whether addresses changed or transfers registered after 3rd December, 1971 and before the issue of Circular No. 2 of 1972 should be cancelled. We are of the view that each case will have to be dealt with on its merit and that general instructions in this behalf cannot be issued. Transfers and/or changes of addresses validly done before the date of issue of the aforesaid Circular shall stand. In all other cases the procedure laid down in the aforesaid Circular should be followed.

3. It has been brought to our notice that certain financial institutions/banks hold shares of companies —

- (i) either in their own name, or
- (ii) in the name of one of their branches, or
- (iii) in their name for the account of a client.

A large number of enquiries have been received as to the procedure that has to be followed in such cases.

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4. So far as the cases of companies holding shares in their own names are concerned, change of address may be made if a change in the registered office of the company has been permitted by the Controller of Capital Issues under the Companies (Shifting of Registered Offices) Ordinance, 1972.

5. In respect of cases of the type mentioned in para 3 (ii) the question raised is whether addresses may be changed in these cases at the request of the head office of the financial institution|bank. The matter has been carefully considered and we are of the view that since the institution|bank is the same legal entity, it is not material whether the shares were registered against its branch office or head office. There should thus be no difficulty in acceding to the request made by the head office in such cases.

6. Where the shares are held by the institution|bank for the account of a client the question that has been commonly asked by many companies is whether they should accept the request of the financial institution|bank for effecting the change of address. This question is being examined in this office and instructions thereon will issue in due course.

CIRCULAR No. 3 OF 1973

CHANGE OF ADDRESS OF SHAREHOLDERS, REGISTRATION OF TRANSFER ETC.

In this Authority's Circular No. 5 of 1972, dated 20th July, 1972 certain guidelines were issued regulating the change of addresses of shareholders from East Pakistan to West Pakistan and the registration of transfer in such cases. However, the procedure for effecting the change of address in respect of shares held by an institution|bank on account of a client (who is for the time being not residing in West Pakistan) was not prescribed in that circular. The legal position has been examined in this Authority and the following instructions are issued for the guidance of all.

2. Issuing of duplicate share certificates in favour of persons residing in East Pakistan, who will be considered as 'enemy' in view of the definition of the term as given in rule 164 of the Defence of Pakistan Rules, would be in contravention of rule 165 of the said Rules which prohibits commercial and financial dealings with enemy. The issuing of the certificates will surely ensure for the benefit of enemy which is not permissible in view of the above provision of the Defence of Pakistan Rules. Moreover, the banks and institutions who had advanced loans against these shares are not entitled to claim issuance of duplicate share certificates in the name of the shareholders, who pledged these

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134

shares with them, as the right to have a duplicate of a share certificate lost or defaced is available only to the person in whose name the said certificate is issued.

3. The legal position stated in the preceding paragraph would apply with equal force to all cases for effecting change of addresses, registration of transfer and consolidation of portfolios.

CIRCULAR No. 1 OF 1975

REGISTRATION OF TRANSFER OF SHARES BY PERSONS OF EAST PAKISTAN/BANGLADESH DOMICILE IN FAVOUR OF PERSONS DOMICILED IN PAKISTAN.

The Federal Government enacted a law named as the Abandoned Properties (Taking-over of Management) Act, 1975 (Act XX of 1975) to take over and manage the property left over in Pakistan by persons domiciled in East Pakistan/Bangladesh. The law takes effect from the 16th day of December, 1971. The enactment provides that all property including shares of industrial units and firms, investments, deposits, policies of insurance and all other interests and rights in or to or arising out of any such property left over by persons domiciled in East Pakistan/Bangladesh shall vest in the Federal Government as from 16th December, 1971.

2. In the past there was no specific legislation on the subject and cases for registration of transfer of securities were considered/decided upon by the issuers/companies according to the existing provisions of law governing the purchase and sale of securities. With the coming into force of the Abandoned Properties (Taking over and Management) Act, 1975, in supersession of the earlier relevant laws, all securities remaining registered as on 16th December, 1971 in the names of persons domiciled in East Pakistan/Bangladesh vest in the Federal Government. Any violation/contravention of the law is punishable under section 22 of the Act. It is, therefore, incumbent upon individuals and other persons who have sought/who seeks registration of transfer of securities bought by them from persons domiciled in East Pakistan/Bangladesh and all companies who have since effected such registration on or after 16th December, 1971 to seek relief under section 14 of the Act from the Administrator appointed by the Federal Government under the provisions of the Act. All concerned are accordingly advised to take appropriate action as required by the Abandoned Properties (Taking Over of Management) Act, 1975.

3. This supersedes the circulars Nos. 2 and 5 of 1972 issued by this Authority in so far as they may be in conflict with the provisions of the Abandoned Properties (Taking Over and Management) Act, 1975.

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REGISTRATION OF TRANSFER OF SHARES BY PERSONS OF EAST
PAKISTAN/BANGLADESH DOMICILE IN FAVOUR OF PERSONS
DOMICILED IN PAKISTAN, ETC.

It has been brought to our notice that companies have not been accepting the requests for registration of transfers of securities holders of which as on 16th December, 1971 had their addresses in East Pakistan or which stood in the name of a person domiciled in the former Province of East Pakistan although the change of address registration of transfer was already made according to instructions laid down in the Circular Nos. 2 and 5 of 1972. Such refusal has created problems in the capital market.

2. The matter has been examined and it has been decided by the Federal Government that the securities in respect of which change of address registration of transfer was already effected accordingly as provided for in the Circular Nos. 2 and 5 will continue to be transactable. Companies concerned should not, therefore, refuse registration of transfer in favour of a buyer and all listed companies are advised to register transfer of shares as elaborated above.

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136

PART OF CIRCULAR No. 6 OF 1972

AMENDMENT IN RULE 13 OF THE SECURITIES AND EXCHANGE RULES, 1971.

The Authority has amended rule 13 of the Securities and Exchange Rules, 1971 *vide* Notification No. S. R. O. 1238 (1)/72, dated the 19th December, 1972 published in the Extraordinary Gazette of Pakistan dated the 21st December, 1972. This circular aims at explaining the change made by the amendment in the following paragraph for the guidance of all concerned:—

Rule 13.—Under the existing rule the half-yearly profit and loss account and balance sheet are required to be transmitted to the Authority, the stock exchanges and shareholders within two months of the end of the half-year. Instances have, however, come to notice where the issuers had not transmitted these accounts but have insisted that these had been mailed. The rule has, therefore, been amended so that the accounts shall be transmitted to the Authority and the stock exchanges under registered post. The accounts are required to be transmitted to the shareholders under cover of postal certificate.

CIRCULAR No. 1 OF 1982

DECLARATION OF DIVIDENDS SUBJECT TO APPROVAL BY FINANCIAL INSTITUTIONS.

It has been observed that some of the listed companies announce dividends but they are valid subject to approval of the financial institutions in terms of the loan agreements. In a number of cases such declarations have been subsequently withdrawn by such companies on the grounds of refusal by financial institutions. This tendency is neither desirable nor healthy for the promotion of investment climate and for infusing confidence amongst the investing public. Moreover as a result of this situation some of the companies have created artificial price hike of the scrips on the stock market and manipulated the market to their own advantage.

2. You are requested to ensure that in case your company has to obtain clearance of financial institutions before declaration of dividend the announcement regarding dividends should not be made till the clearance has been obtained.

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CIRCULAR No. 1 OF 1983

APPLICATION OF FORM "F" OF THE COMPANIES ACT, 1913 TO THE LISTED COMPANIES.

By an amendment made in the Securities and Exchange Rules, 1971 in July, 1982, the format of the Balance Sheet prescribed therein had been done away with. Of late enquiries have been received whether Form "F" of the IIIrd Schedule of the Companies Act, 1913 continues to be applicable to the listed companies or not after the said amendment.

It is clarified that the position in this regard is that Form "F" and other requirements of the Companies Act, 1913 have not altered due to the said amendment in the Securities and Exchange Rules. Accordingly, Form "F" and other provisions of the Companies Act, 1913 continue to apply in the case of listed companies in addition to the requirements of the IIInd Schedule of the Securities and Exchange Rules, 1971 as in the past.

CIRCULAR No. 2 OF 1983

RESPONSIBILITIES OF AUDITORS

The undersigned is directed to draw your attention to Rule 12 of the Securities and Exchange Rules, 1971 which *inter alia*, provides that—

- (i) the annual report required to be furnished by an issuer of a listed security to the stock exchange, the security holders and the Federal Government under section 11 of the Securities and Exchange Ordinance, 1969 shall include a balance sheet, profit and loss account and statement of changes in the financial position/statement of sources and application of funds, etc. prepared in accordance with the requirements of the Second Schedule to the said Rules; and
- (ii) the said balance sheet and profit and loss account, etc. shall be audited by an auditor who is a Chartered Accountant and the report of the auditor shall be in Form B annexed to the Second Schedule.

These provisions, read in conjunction with the provisions of section 18 of the Securities and Exchange Ordinance, 1969 and section 145 of the Companies Act, 1913, *inter alia*, impose responsibility on the auditors in relation to the accounts statements and require them to state the factual position in regard to various matters referred to in their report after due verification. In particular, the duties of auditors require that they should bring out any inaccuracies, shortcomings or disregard of the requirements in clear terms and state reasons for same.

qualification or negative answer in this respect in their own report. Mere reference to any note or notes appended to the accounts can hardly be considered as adequate. This applies to the contents of the balance sheet, profit and loss account and statement of changes in financial position|statement of sources and application of funds as also the notes which form part thereof. Needless to add that any lapse in this regard on the part of any person, more so on the part of auditors who, by virtue of their profession and office, have special responsibilities in relation to company accounts come in the mischief of sections 18 and 22 of the Securities and Exchange Ordinance, 1969 besides section 145 of the Companies Act, 1913 and professional codes applicable to them. The Authority is, therefore, required to take cognisance of such lapses.

3. While bringing the above position to your notice, this Authority has no doubt that the auditors shall discharge their legal and professional responsibilities in regard to company accounts in an un-exceptionable manner and ensure that no disregard thereof takes place that could warrant action as alluded to above.

CIRCULAR No. 5 OF 1983

EXTENSION IN THE PERIOD FOR HOLDING ANNUAL GENERAL MEETINGS AND ISSUING AUDITED ACCOUNTS.

Attention is invited to rule 12 (4) of the Securities and Exchange Rules, 1971 under which every issuer is required to furnish, at least 14 days before its annual general meeting, the annual report (including the audited balance sheet and the profit and loss account) to its shareholders, to the Corporate Law Authority, and to the Stock Exchange(s).

2. It has been observed that, when issuers seek, from the Stock Exchanges, or (pursuant to section 131 of the Companies Act) from the Registrar, Joint Stock Companies, extensions of time, they usually do not endorse copies thereof to the Corporate Law Authority. This results in the Authority remaining in the dark about the likely delay in the circulation of annual accounts and holding of annual general meetings.

3. It has been decided that henceforth all issuers that seek extension of time, either from the Stock Exchange(s), or from the Registrar, Joint Stock Companies, shall invariably endorse copies of their applications to the Authority. The Stock Exchanges|Registrar, Joint Stock Companies have been advised to entertain requests for extension only if copies thereof have been so endorsed.

PCPPI—S. 498 C.L.A.—12-3-84—500

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139

APPENDIX B:

STATEMENT SHOWING EXISTING AND
PROPOSED PROVISIONS OF SECURITIES
AND EXCHANGE ORDINANCE, 1969

(RECEIVED FROM THE CLA)

STATEMENT SHOWING EXISTING & PROPOSED
PROVISIONS OF SECURITIES & EXCHANGE
ORDINANCE, 1969.

Appendex-A

EXISTING TEXT.

PROPOSED TEXT.

REMARKS.

2(aa) Do not exist.

2(aa) "Asset Management Company means a company which offers investment schemes organized under a trust indenture and issues only redeemable securities, each of which represents an individual interest in the unit of specified securities.

Defination is needed in law to provide for framind of rules for open-ended funds.

2(kk) Do not exist.

2(kk) "Securities Depository" means a company which acts as a custodian of securities in connection with a system for the central handling of securities whereby all securities deposited within the system are treated as fungible and may be transferred, loaned, or pledged by book-keeping on entry without physical delivery of securities certificates.

Securities Depository co is proposed to be licenc the law.

STATEMENT SHOWING EXISTING & PROPOSED
PROVISIONS OF SECURITIES & EXCHANGE
ORDINANCE, 1969

| <u>EXISTING TEXT</u> | <u>PROPOSED TEXT</u> | <u>REMARKS</u> |
|---|--|---|
| Does not exist. | 2(aa) <u>"Authority" means Corporate Law Authority.</u> | Authority is being defined so as to substitute the "Central Government" with word "Authority" in the Ordinance. |
| 2(h) "jobber" means any person engaged in the business of effecting transactions in securities for his own account, through a broker or otherwise, but does not include any person who trades in securities for his own account, either individually or in some fiduciary capacity, otherwise than as a part of a regular business; | 2(h) <u>"Dealer or jobber" means any person engaged in the business of effecting transactions in securities for his own account, through a broker or otherwise, but does not include any person who trades in securities for his own account, either individually, otherwise than as a part of a regular business;</u> | Dealer is being included in the definition along with jobber. |
| 2(h)(ii) "Officer"* for the purpose of Chapters III, IV and V in relation to an issuer, includes managing agents, manager, secretary, accountant or auditor of the issuer; | 2(h)(ii) "Officer"* for the purpose of Chapters III, IV and V, in relation to an issuer, includes managing agents, <u>director, chief executive (by whatever name designated),</u> manager, secretary, accountant or auditor of the issuer; | "Director, chief executive (by whatever name designated) are being included in the definition. |
| 2(m) "Stock Exchange" means any person who maintains or provides a market place or facilities for bringing together buyers and sellers of securities or for otherwise performing with respect | 2(m) "Stock Exchange" means any organization or association <u>of persons (incorporated under the Companies Ordinance, 1984,</u> who constitute who maintains or provides a market place or | It is being provided that organization/association incorporated under the Ordinance, 1984. |

147

STATEMENT SHOWING EXISTING & PROPOSED
PROVISIONS OF SECURITIES & EXCHANGE
ORDINANCE, 1969

| <u>EXISTING TEXT</u> | <u>PROPOSED TEXT</u> | <u>REMARKS</u> |
|--|---|--|
| to securities the func- tions commonly performed by a Stock Exchange, as that term is generally understood, and includes such market place and facilities. | facilities for bringing together buyers and sellers of securities or for other- wise performing with respect to securities functions commonly performed by a Stock Exchange, as that term is generally understood, and includes such market place and facilities. | |
| Does not exist. | Chapter 1-A <u>Corporate Law Authority</u> Constitution of Corporate Law Authority :- (1) The Federal Government shall, by notification in the official Gazette, constitute a Corporate Law Authority. (2) The Authority shall consist of such number of members not, being less than three, as the Federal Govern- ment deems fit, to be appoin- ted by that Government by notification in the official Gazette. (3) One of the members shall be appointed by the Federal Government to be the Chairman of the Authority. | Constitution of CLA is provided in the Ordin is to give it a statu standing the provisio been adopted from Com Ordinance, 1984. |

143

STATEMENT SHOWING EXISTING & PROPOSED
PROVISIONS OF SECURITIES & EXCHANGE
ORDINANCE, 1969

EXISTING TEXT

PROPOSED TEXT

REMARKS

(4) No act or proceeding of the Authority shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution of, the Authority.

Powers and functions of the Authority :-

(1) The Authority shall exercise and perform such powers and functions as are conferred on it by or under this Ordinance or any other law.

(2) Notwithstanding anything contained in any other law, and without prejudice to the generality of the foregoing provisions, the Federal Government may, by notification in the official Gazette, direct that all or any of the powers and functions conferred on the Federal Government or any officer of the Federal Government under any law shall, subject to such limitations, restrictions or conditions, if any, as it may from time to time impose, be exercised or performed by the Authority.

(3) The Authority may, by order in writing, direct that any power or function of the Authority referred to in sub-section (1) or sub-section (2) shall, subject to such conditions and limitations, if any, as may be specified in the order, be exercised or performed

144

STATEMENT SHOWING EXISTING & PROPOSED
PROVISIONS OF SECURITIES & EXCHANGE
ORDINANCE, 1969

EXISTING TEXT

PROPOSED TEXT

REMARKS

by the Chairman of the Authority
or by such other member or
officer of the Authority as may
be so specified.

(4) The Authority, and the member
or officer referred in sub-section
(3) may, for the purposes of a
proceeding or enquiry, require any
one ---

(a) to produce before, and
to allow to be examined and
kept by, an officer of the
Authority specified in this
behalf, any books, accounts
or other documents in the
custody or under the control
of the person so required,
being documents relating to
any matter the examination
of which may be considered
necessary by the Authority
or such member or officer;
and

(b) to furnish to an officer
of the Authority specified in
this behalf such information
and documents in his possession
relating to any matter
as may be necessary for the
purposes of the proceeding or
enquiry.

(5) The procedure of the Authority
shall be such as may be prescribed.

(6) The Federal Government may
appoint such officers as it thinks

STATEMENT SHOWING EXISTING & PROPOSED
PROVISIONS OF SECURITIES & EXCHANGE
ORDINANCE, 1969

EXISTING TEXT

PROPOSED TEXT

REMARKS

necessary to assist the Authority in the performance of its duties and functions under this Ordinance and may make regulations with respect to their duties.

(7) All officers and persons employed in the execution of this Ordinance shall observe and follow the order, instructions and directions of the Authority.

3. No stock exchange to operate without registration.- No Stock Exchange..... Ordinance.

No Stock Exchange to operate without registration.-(1) No Stock Exchange Ordinance.

Present section being sub-section as a new section is being inserted.

Does not exist.

4(2) The number of stock exchanges to be established at a city and the suitability of a city shall be decided by the Authority.

Enabling powers for establishment of a stock exchange of a city being provided by the Authority.

4(1) Any Stock Exchange which fulfill such conditions or complies with such requirements as may be prescribed to ensure fair dealings and to protect investors shall be eligible for registration under this Ordinance.

4(1) Any Stock exchange which fulfill such conditions or complies with such requirements as may be prescribed to ensure its sustainable economic viability, shall be eligible for registration under this Ordinance.

For the words "fair and to protect investors" the words "its sustainable economic viability" being substituted to the viability of the exchange.

4(2)(g) Does not exist.

Such non-refundable processing fee as may be prescribed by the Authority from time to time.

A lot of documents to be examined in the process of registration. As Authority to be provided to prescribe a fee.

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146

STATEMENT SHOWING EXISTING & PROPOSED
PROVISIONS OF SECURITIES & EXCHANGE
ORDINANCE, 1969

| <u>EXISTING TEXT</u> | <u>PROPOSED TEXT</u> | <u>REMARKS</u> |
|---|--|--|
| <p>5(2) The Central Government, if it is satisfied, after such further information as it may consider necessary,--</p> <p>(i) that the Stock Exchange is eligible for registration; and</p> <p>(ii) that it would be in the interest of the trade and also in the public interest to register the Stock Exchange;</p> <p>may grant a certificate of registration to the Stock Exchange.</p> | <p>(a) The Authority shall on receipt of an application under sub-section (1), publish notice of the application and afford other interested persons an opportunity to submit within 30 days:</p> <p>(i) data, views and comments on the concerned application; and/or;</p> <p>(ii) fresh application for registration.</p> <p>(b) Within ninety days of the date of publication of such notice (or within such longer period with the concurrence of the applicant(s)/, the Authority after considering all eligible applications and if it is satisfied after such enquiry and after obtaining such further information as it may consider necessary:-</p> <p>(i) that the Stock Exchange is eligible for registration; and;</p> <p>(ii) that it would be in the interest of trade and also in the public interest to register the Stock Exchange;</p> <p>may grant a Certificate of Registration to the Stock Exchange the most suitable applicant.</p> | <p>Existing provisions keep submission of application at any time which creates problems in making decision change is being made to such situation in future provide equal opportunity all interested parties.</p> |

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147

STATEMENT SHOWING EXISTING & PROPOSED
PROVISIONS OF SECURITIES & EXCHANGE
ORDINANCE, 1969

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|------|---|------|--|---|
| 5(3) | No application for registration shall be refused except after giving the applicant an opportunity of being heard. | 5(3) | No application for registration <u>(which fulfils the requirements and rules framed thereunder)</u> shall be refused except after <u>providing the applicant an opportunity of being heard.</u> | Provision is being elabor |
| 8(2) | No business shall be transacted on a Stock Exchange in a security, other than a Government security <u>or a bonus entitlement voucher,</u> which is not listed on such Stock Exchange. | 8(2) | No business shall be transacted on a Stock Exchange in a security, other than a Government security which is not listed on such Stock Exchange. | Redundant instrument bonu entitlement voucher are b deleted. |
| 9(2) | Upon receipt of an application under sub-section (1), the Stock Exchange may, if it is satisfied after making inquiry as it may consider necessary that the applicant fulfils the conditions prescribed in this behalf, list the security for dealings on the Stock Exchange. | 9(2) | Upon receipt of the application under sub-section (1), the Stock Exchange may, if it is satisfied after making inquiry as it may consider necessary that the applicant fulfils the conditions prescribed in this behalf, list the security for dealings on the Stock Exchange. | The word "an" appearing i 1st line being substitute. the word "the". |
| 9(3) | Where a Stock Exchange refuses to list a security, the Central Government may, either <u>on petition by the</u> application made within the prescribed time or on its own motion, direct the Stock Exchange to list the security. | 9(3) | Where a Stock Exchange refuses to list a security, the <u>Authority</u> may, either on petition <u>by an</u> application made within the prescribed time or on its own motion, direct the Stock Exchange to list the security. | The word "the" appearing the words "petition by", substituted by the word " |

STATEMENT SHOWING EXISTING & PROPOSED PROVISIONS OF SECURITIES & EXCHANGE ORDINANCE, 1969

9(8) An order under sub-section (7) shall remain in force for a period of sixty days which the Central Government or, ~~as the case may be,~~ the Stock Exchange may extend for further period not exceeding sixty days at any time.

9(8) An order under sub-section (7) shall remain in force for a period of upto sixty days which the Authority or, as the case may be, the Stock Exchange may extend for further periods not exceeding sixty days at any time.

The word "upto" is being inserted after the word "period of", so as to provide for enforcement of the order for less than sixth days as well.

10. Where the Central Government, having regard to the nature of, and the dealings, in, any security, is of the opinion that it is necessary or expedient in the public interest so to do, it may, after consulting a Stock Exchange and giving the issuer of such security, an opportunity of being heard, direct the Stock Exchange to list the security.

10. Where the Authority, having regard to the nature of, and the dealings in, any security, is of the opinion that it is necessary or expedient in the public interest so to do, it may, after consulting the Stock Exchange concerned and giving the issuer of such security, an opportunity of being heard, direct the company to get its security listed on Stock Exchange

Substitution of the word in place of "a" after "consulting" and inserting the word "concerned" after the word "Stock Exchange" in 8, so as to make provision more clear. Moreover, substitution of the words "company to get its security listed on the Stock Exchange" is made to place the obligation of listing on the company.

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149

STATEMENT SHOWING EXISTING & PROPOSED
PROVISIONS OF SECURITIES & EXCHANGE
ORDINANCE, 1969

| <u>EXISTING TEXT</u> | <u>PROPOSED TEXT</u> | <u>REMARKS</u> |
|---|--|---|
| 11. <u>Submission of returns</u> Omitted as repealed by Companies Ordinance, 1984. | 11. <u>Registration of Registrar and Balloter Etc.</u> (1) No person shall act as registrar or balloter, by whatever name called, to an issue of a security listed or in the process of listing unless such person is registered under this Ordinance. (2). A person to be eligible for registration as registrar or balloter under the Ordinance shall apply to the Authority for registration on prescribed form and pay such fee as may be prescribed. (3). The Authority, if it is satisfied, after such enquiry and after obtaining such further information as it may consider necessary, may grant a certificate of registration to act as registrar or balloter. (4). No application for registration shall be refused except after giving the applicant an opportunity of being heard. (5) Where the Authority is of the opinion that a registrar or balloter has contravened any provision, or has otherwise neglected or failed to | Provision are made so as to the registrars balloters under Ordinance. |

150

comply with any requirements of the Ordinance, or of any rules, regulations or directions made or given thereunder, the Authority may suspend the registration for a specified period or cancel the registration of such registrar or balloter.

Provided that the registration shall not be cancelled except after giving the registrar or the balloter an opportunity of being heard.

- (6) The registration shall be renewed every year on payment of prescribed fee.

12. Submission of statements of beneficial owners of listed equity securities.

Omitted as repealed by Companies Ordinance, 1984.

12. Registration of Underwriters.

Provision are made so as to underwriters Ordinance.

- (1) No person shall act as underwriter to a security to be listed on a stock exchange unless such a person is registered under this Ordinance.
- (2) A person to be eligible for registration as underwriter under the Ordinance shall apply to the Authority for registration on prescribed form and pay such fee as may be prescribed.
- (3) The Authority, if it is satisfied, after such enquiry and after obtaining such further information as it may consider necessary, may grant a certificate of registration to act as an underwriter.

151

-: (11) :-

- (4). No application for registration shall be refused except after giving the applicant an opportunity of being heard.
- (5). Where the Authority is of the opinion that an underwriter has contravened any provision, or has otherwise neglected or failed to comply with any requirements of the Ordinance, or of any rules, regulations or direction made or given thereunder, the Authority may suspend the registration for a specified period or cancel the registration of such underwriter.
- Provided that the registration shall not be cancelled except after giving the underwriter an opportunity of being heard.
- (6). The registration shall be renewed every year on payment of prescribed fee.

157

STATEMENT SHOWING EXISTING & PROPOSED
PROVISIONS OF SECURITIES & EXCHANGE
ORDINANCE, 1962.

| <u>EXISTING TEXT</u> | <u>PROPOSED TEXT</u> | <u>REMARKS</u> |
|--|--|--|
| 13. <u>Prohibition of short selling</u> Omitted as repealed by the Companies Ordinance, 1984. | 13. Prohibition of making fictitious and multiple applications in new issues. (1) No person or any other person on his behalf, shall make a fictitious application or submit more than one application for shares of companies which are offered to the public. (2). In case of violation of subsection(1), the application money shall be liable to confiscation by the Authority. (3). Provided that no application money shall be confiscated except after giving the applicant an opportunity of being heard. | Amending provisions are being made to penalise persons making multiple fictitious applications in new issues |

STATEMENT SETTING EXISTING & PROPOSED
PROVISIONS OF SECURITIES & EXCHANGE
ORDINANCE, 1969.

EXISTING TEXT

PROPOSED TEXT

REMARKS

14. Trading by directors officers and principal shareholders.

Omitted or repealed by
Companies Ordinance, 1964.

14. Registration of Securities Depository

1. No company shall act as "securities depository" unless such company is registered under this Ordinance.

2. A company to be eligible for registration under the Ordinance, shall, subject to such conditions as may be prescribed from time to time, be incorporated under Companies Ordinance, 1964.

3. The Authority, if it is satisfied, after such enquiry and after obtaining such further information as it may consider necessary, may grant a certificate of registration to act as a securities depository.

4. No application for registration shall be refused except after giving the applicant an opportunity of being heard.

5. Where the Authority is of the opinion that a securities depository has contravened any provision, or has otherwise neglected or failed to comply with any requirement of the Ordinance, or of any rules,

Security Depository scheme is being introduced in the country for the first time. Provision relating to registration of securities depository to ensure that only proper companies enter in this area.

154

regulations or directions made or given thereunder, the Authority may suspend the registration for a specified period or cancel the registration of the Securities Depository.

Provided that the registration shall not be suspended or cancelled except after giving the Securities Depository an opportunity of being heard.

6. The registration shall be renewed every year on payment of prescribed fee.

Note: "Securities Depository" means a company which act as a custodian of securities in connection with a system for the central handling of securities whereby all securities deposited within the system are treated as fungible and may be transferred, loaned, or pledged by book-keeping entry without physical delivery of securities certificates.

MEMORANDUM SHOWING EXISTING & PROPOSED
PROVISIONS OF SECURITIES EXCHANGE
ORDINANCE, 1969.

| <u>EXISTING TEXT</u> | <u>PROPOSED TEXT</u> | <u>REMARKS.</u> |
|---|--|---|
| <p>15. <u>Regulation of Proxies</u> Omitted as repealed by Companies Ordinance, 1984.</p> | <p>15. <u>Registration of Credit Rating Agency.</u></p> | |
| <p>Section 21(1) 21(2)</p> | <p>Proposed provisions are placed at Appendix "A" for considera- tion/approval of the Committee.</p> | |
| <p>1. The Federal Government may, on its own motion or on representation of not less than one fifth in number of the members of the Stock Exchange or, in the case of the members or any transaction mentioned in clauses (b), on the representation of the Stock Exchange or any person interested in or affected by such business or transaction, at any time by order in writing, cause an enquiry to be made by any person appointed in this behalf into:-</p> <p>a) the affairs of, or dealings in, any Stock Exchange; or</p> <p>b) the dealings, business or any transaction in securities by any broker, member, director or officer of a Stock Exchange.</p> | <p>1. Inquiry:-(1) The Authority may, on its own motion or, in the case of the issuer of a listed security, on representation of holders of not less than ten per cent of equity securities at any time by order in writing, cause an enquiry to be made by any person appointed in this behalf into:-</p> <p>a) the affairs of any Stock Exchange, or of any issuer of a listed security;</p> <p>b) the business or any transaction in securities by any member, director or officer of a</p> | <p>Provisions which existed prior to enforcement of Companies Ordinance, 1984 being re-introduced so as to provide for suo-moto investigations of the case of :</p> <p>a) listed companies; and for</p> <p>b) violations of section-17.</p> |

156

2. Where any enquiry under sub-section (1) has been undertaken every past or present member, director, manager or other officer of the Stock Exchange to which the enquiry relates, and every other person who has had any dealing in the course of his business with such Stock Exchange or with the director, manager or officer thereof, shall furnish such information and documents in his custody or power or within his knowledge relating to or having bearing on the subject-matter of the enquiry as the person conducting the enquiry may require.

Stock Exchange or of an issuer, or of a director or an officer thereof, or by any person who is directly or indirectly the beneficial owner of not less than ten percent of a listed security.

c) such acts as are prohibited in section 17 of the Ordinance.

(2) where an enquiry under sub-section (1)

has been undertaken, every member, director, auditor, manager or other officer of the Stock Exchange or the issuer to which, or to whose member, director or officer of the enquiry relates, and every other person who has had any dealing in the course of his business with such Stock Exchange, or issuer or with the director, auditor, manager or officer thereof, shall furnish such information in his custody or power or within his knowledge relating to or having a bearing on the subject-matter of the enquiry as the person conducting the enquiry may require.

STATEMENT SHOWING EXISTING AND PROPOSED
PROVISIONS OF SECURITIES & EXCHANGE
ORDINANCE, 1969

| EXISTING TEXT | PROPOSED TEXT | REMARKS |
|---|--|--|
| 1 | 2 | 3 |
| <p>22. Penalty for.....such Sum not exceeding <u>50,000</u> rupees.....section.</p> <p><u>Section 24(1)</u> Whoever contravenes the provisions of section 17 shall be punishable with <u>imprisonment for a term</u> <u>which may extend to three years,</u> <u>or with fine which may extend to</u> <u>thirty thousand rupees,</u> or with both.</p> | <p>Penalty for.....such sum not exceeding 100,000 rupees.....section.</p> <p>whoever contravenes the provisions of section 17 shall be punishable with <u>fine which may extend to one</u> <u>hundred thousand rupees, or with</u> <u>imprisonment for a term which</u> <u>may extend to three years or</u> with both.</p> | <p>Amount of penalty is being enhanced from Rs. 30,000 to Rs. 100,000.</p> <p>(a) Fine is being brought before imprisonment.</p> <p>(b) amount of fine is being enhanced from Rs. 30,000 to Rs. 100,000.</p> |

STATEMENT SHOWING EXISTING & PROPOSED
PROVISIONS OF SECURITIES & EXCHANGE
ORDINANCE, 1969

Section 26:

Revision and review:-(1) Any order passed or made under this Ordinance by an officer or authority subordinate to the Central Government or exercising powers of the Central Government in pursuance of a direction under section 25 shall be subject to revision by the Central Government upon application being made by any aggrieved person within ninety days from the date of such order and the Central Government's order in revision shall be final.

(2) The Central Government may, upon an application being made to it within a period of six months from the date of any order passed by it otherwise than in revision under sub-section(1) or on its own motion review such order; and the Central Government's order in review shall be final.

Revision and review:-(1) Any order passed or made under this Ordinance by an officer exercising powers of the powers of the Authority in pursuance of a direction under section 4 shall be subject to revision by the Authority upon application being made by any aggrieved person within sixty days from the date of such order; and the Authority's order in revision shall be final.

(2) The Authority may, upon an application being made to it within sixty days from the date of any order passed by it otherwise than in revision under sub-section(1) or on its own motion, review such order; and the Authority's order in review shall be final.

Change being made as all parts in the Ordinance will vest in the Authority. Time period for revision and review reduced to 60 days by giving the provision in line with the company law.

- do -

Section 27:

Advisory Committee:- The Central Government may, for the purpose of obtaining advice and assistance in carrying out the purposes of this Ordinance, constitute an Advisory Committee consisting of such persons representing interests affected by this Ordinance or having special knowledge of the subject-matter thereof as it may think fit.

Advisory Committee:- The Federal Government may, for the purpose of obtaining advice and assistance in carrying out the purposes of this Ordinance, constitute an Advisory Committee consisting of such persons representing interests affected by this Ordinance or having special knowledge of the subject-matter thereof as it may think fit.

Word central is being replaced with the word "Federal".

Section - 28

Delegation of power (1). The Central Government may, by notification in the Official Gazette, direct that all or any of its powers and functions under this Ordinance may, subject to such limitations, restrictions or conditions, if any, as it may from time to time impose, be exercised or performed also by any officer or authority subordinate to it or specially appointed for the purposes.

Fees - (1) There shall be paid fees in respect of matters as may be specified from time to time or as the Authority may direct.

Provisions for delegation of powers exist in prop: part-A-I, Hence existing text is being deleted and substituted for making provisions for fees.

(2) All fees paid in pursuance of this Ordinance shall be accounted for to the Federal Government.

32-A

Does not exist

180

32-A Regulation of Business of Assets Management Companies. - The business of Assets Management Companies shall be regulated in such manner as may be prescribed

Provision being made to empower the Authority rules for Asset Management Companies.

EXISTING TEXT

PROPOSED TEXT

REMARKS

Section 33

Power to make rules:-(1) The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular, without prejudice to the generality of the foregoing power, such rules may provide for:-

- (a) any of the matters which are to be or may be prescribed for the purposes of clauses (d) of section 2 and section 4, 5, 6, 9, 11, 15, 16 and 32; and

53. POWERS TO MAKE RULES

(1) In addition to the powers conferred by any other section, the Authority may, by notification in the Official Gazette, make rules:-

- (a) for all or any of the matters which by this Ordinance are to be, may be, prescribed by the Authority; and
- (b) generally to carry out the purposes of this Ordinance.

Provided that, before making any such rule, the draft thereof shall be published by the Authority in the Official Gazette for eliciting public opinion thereon within a period of not less than fourteen days from the date of publication.

(2) Any rule made under sub-section (1) may provide that a contravention thereof shall be punishable with a fine which may extend to fifty thousand rupees and where the contravention is a continuing one, with a further fine which may extend to two thousand rupees for every day after the first during which such contravention continues.

Substitution is being made to bring the text consistent with section 50G of the Companies Ordinance,

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161

APPENDIX C:

PROPOSED CHAPTER IV - A
INSIDER TRADING
(RECEIVED FROM THE CLA)

CHAPTER IV-A

INSIDER TRADING

Prohibition on stock exchange deals by insiders, etc.

(1) No person who is, or, at any time in the preceding six months has been, knowingly connected with a company shall deal, directly or indirectly, on a stock exchange in a listed security of that company if he has information which he knows:-

- (a) is not generally available; and
- (b) would, if it were so available, be likely materially to affect the price of those securities.

(2) No person who is, or at any time in the preceding six months has been, knowingly connected with a company shall deal, directly or indirectly, on a stock exchange in any listed securities of any other company if he has information which he knows:-

- (a) is not generally available; and
- (b) would, if it were so available, be likely materially to affect the price of those securities; and
- (c) relates to any transaction (actual or contemplated) involving both those companies, or involving one of them and securities of the other.

Explanation: For the Purpose of this Part of the Ordinance;

- (A) A person is connected with a company if, but only if,
 - a) he is an officer or employee of that company; or
 - b) he is a relevant shareholder in the company or a related company; or
 - c) he occupies a position which may be reasonably expected to give him access, by reason of-

- i) any professional or business relationship existing between himself (or his employer or a company of which he is a director) and that company or a related company; or
- ii) his being an officer or employee of a relevant shareholder in the company or a related company.

to information which is not generally available and is likely to include information which would , if it were so available, be likely materially to affect the price of securities of that company or any other company.

(2) A person deals in securities if (whether as principal or agent) he buys or sells or agrees to buy or sell any securities or acquires or disposes of, or agrees to acquire or dispose of, the right to buy, sell or subscribe for any securities.

In this section-

" related company" in relation to a company, means any body corporate which is that company's subsidiary or holding company, or a subsidiary of that company's holding company;

" relevant shareholder" in relation to any company, means a person interested in shares comprised in the equity share capital of that company of nominal value equal to at least ten percent of that share capital.

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(3) No person shall, at any time when he is prohibited sub section (1) or (2) above from dealing on a stock exchange in any listed securities, shall procure any other person to deal directly or indirectly on a stock exchange in those securities.

(4) No person shall, at any time when he is prohibited aforesaid from dealing on a stock exchange in any listed securities by reason of his having any information, communication that information to any other person if he knows that ^{other} person will make use of the information for the

or of procuring any other person to deal, on a stock exchange in those securities.

(5) The provisions of this section shall not prohibit a person by reason of his having any information from doing any particular thing if either:-

(a) he does that thing otherwise than with a view to the making of a profit or the avoidance of a loss (whether for himself or another) by the use of the information; or

(b) that thing consists in his entering into a transaction in the course of the exercise in good faith of his functions as a liquidator, receiver or trustee in bankruptcy.

(6) (i) Whenever it shall appear to the Authority that any person has violated any provision of this section or the rules or regulations thereunder, the Authority, if it is satisfied after giving the person an opportunity of being heard that the contravention was wilful, by order direct that such person shall be liable to tender the amount of such gain to the issuer and in addition pay to the Federal Government by way of penalty such sum not exceeding three times the profit gained or loss avoided as result of such contravention.

(ii) Any sum directed to be paid under clause (i) shall be recoverable as an arrear of land revenue.

Sub:- AMENDMENT TO BE INCORPORATED IN SECURITIES AND EXCHANGE ORDINANCE TO PROVIDE FOR INVESTIGATION OF INSIDER TRADING.

In section 21 in sub-section(I), after new clause(c), a new clause (d) will be added so as to provide for investigation into dealings by a director or officer of an issuer and/or a person having more than ten percent of listed securities. The proposed text is:-

" (d) The dealings, business or any transaction in securities by a director or officer of an issuer or a person having more than ten percent of listed securities of an issuer or a person in possession of material non-public information of the issuer".

APPENDIX D:
LIST OF PEOPLE INTERVIEWED

LIST OF PEOPLE INTERVIEWED

Corporate Law Authority

Mian Mumtaz Abdullah
Chairman

Mr. Khalid Masood
Member (CRW)

Mr. M. Javed Panni
Chief Securities

Grindlays Bank

Mr. Adil Ahmed
Area Manager

Interbank

Mr. Fredrick Piechozek
Chief Executive

Investment Corporation of Pakistan

Mr. Asadullah Khawaja
Deputy Managing Director

Islamabad Stock Exchange

Mr. Amanullah Khan
President

Jehangir Siddiqi & Company

Mr. Jehangir Siddiqi
Chairman

Karachi Stock Exchange

Mr. Arif Habib
President

Mr. Sirajuddin Cassim
Vice President
Member Karachi and Islamabad Stock Exchange

Mr. Amin Issa Tai, member Karachi Stock Exchange and former Chairman

Mr. Firozuddin A. Cassim, member of Karachi Stock Exchange and Islamabad Stock Exchange Former President Karachi Stock Exchange

Khadim Bukhari & Company

Mr. Khadim Ali Shah Bukhari

Ministry of Commerce

Mr. Shanim Ahmad Khan
Secretary, Pakistan Investment Board

Ministry of Finance

Mr. Nasir Ahmed
Joint Secretary, Investment, Finance Division

National Development Finance Corp.

Mr. Mati ur Rehman
Chairman

National Investment Trust Corporation

Mr. Salahuddin Qureshi
Chairman

State Bank of Pakistan

Mr. Ashraf Janjua
Deputy Governor

U.S.AID/Pakistan

Mr. Carl R. Duisberg
Chief (A) Office of Private Enterprise & Energy

169

APPENDIX E:

PROPOSED RULES OF CONDUCT
FOR THE MEMBERS AND EMPLOYEES
OF THE CORPORATE LAW AUTHORITY

PROPOSED RULES OF CONDUCT FOR THE MEMBERS AND EMPLOYEES OF THE
CORPORATE LAW AUTHORITY

It is recommended that the Authority establish a Code of Ethics or a Code of Conduct setting forth standards of ethical conduct required of Authority members and employees. It is also recommended that every member and every employee be given a copy of the standards with an attached receipt which is to be signed by each recipient to document the fact that it was received so that those on the Authority or employed by the Authority can be held to the Standards.

The following Receipt and Standards are recommended for Authority consideration.

If the Authority believes that it is necessary to preclude members and employees from engaging in any securities transactions, item 15, 16 and 17 could be replaced by a complete prohibition on securities transactions.

CORPORATE LAW AUTHORITY

RECEIPT

Instructions: Please complete this receipt and return it to

To:

I acknowledge receipt of a copy of the Authority's Rule regarding
Conduct of Members and Employees

NAME

POSITION

DATE

RULES OF CONDUCT FOR THE MEMBERS AND EMPLOYEES OF THE
CORPORATE LAW AUTHORITY

I POLICY

The Corporate Law Authority has been entrusted with the protection of the public interest in an important area of our national economy. In view of the effect which Authority action may have on the general public, it is important that members and employees of the Authority maintain high standards of honesty, integrity, impartiality and general conduct. They must be constantly aware of the need to avoid situations which might result either in actual or apparent misconduct or conflicts of interest and to conduct themselves in a manner that commands respect and confidence.

For these reasons, members and employees are expected to abide by the standards of conduct set forth in this Rule.

In addition to this Rule, all professional persons have an obligation to know and comply with the ethical standards of their profession.

II GENERAL PROVISIONS

1. Members and employees shall avoid any activity which would result in or might create the appearance of:
 - (a) Using public office for private gain;
 - (b) Giving preferential treatment to any organisation or person;
 - (c) Not being completely independent or impartial;
 - (d) Making Authority decisions outside official channels;
or
 - (e) Affecting adversely the confidence of the public in the integrity of the Authority.
2. A member or employee of the Authority shall not engage directly or indirectly in any personal business transaction or private arrangement for personal profit, the opportunity for which arises because of his or her official position or authority, or that is based upon confidential or non-public information which he or she gains by reason of such position or authority.
3. A member or employee of the Authority shall not solicit or accept, directly or indirectly, any gift, gratuity, favour, entertainment, loan, service, or any other thing of

significant monetary value from any person who has or is seeking to obtain, business or financial relations with the Authority, conducts activities regulated by the Authority or has interests that may be substantially affected by the performance or non-performance of the member's or employee's official duty.

The preceding paragraph does not prohibit members and employees from -

- (a) accepting food or refreshments, not lavish in kind, offered free in the course of a meeting or other group function, not connected with an inspection or investigation;
 - (b) accepting items when the circumstances make it clear that family or personal relationships are the basis;
 - (c) accepting unsolicited promotional items such as pens, pencils, notepads, calendars, etc., of modest value;
 - (d) accepting meals or refreshments provided to all speakers or panelists when participating in an educational program or conference;
 - (e) accepting gifts of nominal value given to all participants in an educational program.
4. A member or employee of the Authority shall not divulge to any unauthorised person or release in advance of authorisation for its release, any non-public Authority document, or any information contained in any such document or any other confidential information.
5. A member or employee of the Authority shall not;
- (a) act in any official matter with respect to which there exists a personal interest incompatible with an unbiased exercise of official judgement;
 - (b) have direct or indirect personal, business or financial affairs which conflict or appear to conflict with his or her official duties and responsibilities;
 - (c) use or allow the use of Authority property of any kind, including property leased to the Authority for other than officially approved activities.
6. Any publication or speech by a member or employee of the Authority dealing with securities matters shall include in an appropriate place or by way of a footnote a disclaimer that the views expressed do not necessarily reflect the

views of the Authority or its staff, unless the material has been approved by the Authority to represent its views.

7. A member or employee of the Authority shall not participate, while on Authority owned or leased property, or while on duty for the Authority in any gambling activity, including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a number slip or ticket.

III CONFLICTING EMPLOYMENT ACTIVITIES

8. A member or employee of the Authority shall not have any outside or private employment, activity or affiliation that is incompatible with concurrent responsibilities to the Authority. This includes activity which impairs the persons mental or physical capacity to perform Authority duties and responsibilities in an acceptable manner. Any employment or prospective employment of a member's or employee's spouse or other member of his or her immediate household with an entity the activities of which are under the jurisdiction of the Authority must be brought to the attention of the Authority for a decision as to whether such employment is or would be an un-acceptable conflict of interest.
9. A member or employee of the Authority shall not discuss or entertain a proposal for future employment by any person outside of government with whom he or she is personally and substantially involved in dealings on behalf of the Authority without the Authority's approval.
10. An employee of the Authority may not negotiate employment with anyone outside the Authority with whom he or she is personally engaged in any matter for the Authority.
11. An employee of the Authority shall not undertake to act on behalf of the Authority in any matter that to his or her knowledge affects in any way a person or organisation outside the-Authority with whom he or she is discussing or considering any proposal for future employment, except pursuant to direction from the Authority.
12. A member or employee of the Authority may not receive anything of monetary value from a private source as compensation for his or her services to the Authority.

IV SECURITIES REPORTING AND TRANSACTIONS

13. A member or employee of the Authority shall prior to the time of taking office or employment make a report to the Authority describing securities owned by him or her or a spouse or minor child. An additional report of all such holdings as of June 30, shall be submitted by September 30 of each year. Every purchase or sale of any security shall be reported to the Authority within 5 business days of the transaction date.
14. A member or employee of the Authority shall not have a beneficial interest in any broker or dealer.
15. A member or employee of the Authority shall not effect or cause to be effected any transaction in a security except for bona fide investment purposes. A member or employee is considered to have sufficient interest in the securities of his or her spouse or minor child or other member of his or her immediate household that such transactions must be subject to the same limitations that apply to members and employees.
16. A member or employee of the Authority shall not purchase securities on margin or borrow funds to purchase securities unless prior approval has been granted by the Authority.
17. A member or employee of the Authority shall not purchase any security of any company which to his or her knowledge is the subject of any pending investigation or any other action by the Authority.

V INDEBTEDNESS

18. The Authority considers the indebtedness of its members and employees to be a matter of their own concern, however, failure of an employee without good reason to honour debts acknowledged by him or her to be valid may be cause for disciplinary action if it reflects adversely on the Authority.

APPENDIX F:
EXAMPLE CONFLICT OF INTEREST RULE
FROM INDONESIA

Note:

Amendments to this rule are being considered which would provide for more flexibility in receiving approval from independent shareholders than is provided in paragraph 2.

The new provisions would permit three successive meetings in which to seek such approval of a majority.

The first meeting would require approval by a majority of at least two thirds of the total independent shares.

The second meeting would require approval by a majority of at least one-half of the total independent shares.

The third meeting would require BAPEPAM approval and approval of a majority of the independent shares represented at the meeting.

UNOFFICIAL TRANSLATION

RULE NUMBER IX.D.1

CONFLICTS OF INTEREST ON CERTAIN TRANSACTIONS

ATTACHMENT:

Decision of the Chairman of BAPEPAM
Number : Kep-01/PM/1993
Date : 29 January 1993

RULE NUMBER IX.D.1: CONFLICTS OF INTEREST ON CERTAIN TRANSACTIONS

1. Definitions:

- a. Company means a public company that has made a public offering;
- b. Controlled company is a Company in which the controlling company has a controlling interest as referred to in Article 1, Item 44 of the Ministerial Decree 1548/KMK.013/1990 regarding the Capital Market as amended by the Ministerial Decree of the Republic of Indonesia Number 1199/KMK.010/1991 regarding changes of the Ministerial Decree No. 1548/KMK.013/1990 on the Capital Market.
- c. Transaction means the act of granting and or acquiring a loan, obtaining, disposing of or using the assets, services or securities of a company or any of its controlled companies or contracting with respect to such an act;
- d. Conflict of interest means a divergence or difference between the common interests of a company and its shareholders and the private, economic interests of a commissioner, director or substantial shareholder, severally as well as jointly. The definition of conflict of interest also includes matters which are not in the interests of investors and the public, when such transaction involves commissioners, directors or substantial shareholders and when their personal interests may be in conflict with the interest of the company, unless provided otherwise by this rule.
- e. Employee means all persons who receives a salary from a company, a member of the board of commissioners and a member of the board of directors.

UNOFFICIAL TRANSLATION

RULE NUMBER IX.D.1

CONFLICTS OF INTEREST ON CERTAIN TRANSACTIONS

2. Except as provided in paragraph 3 of this rule, a transaction in which a commissioner, a director or a substantial shareholder has a conflict of interest must receive approval from more than 50% (fifty percent) of the shareholders who do not have a conflict of interest with respect to the transaction. The provision on such matter must be confirmed in the form of a notarized deed.
3. The transactions that are exempt from the requirements as referred to in paragraph 2 of this rule, are:
 - a. Transactions between a company and a wholly owned controlled company or between wholly owned controlled companies when the financial reports of the companies are consolidated;
 - b. Transactions between a company and a non-wholly owned controlled company in which none of the company's commissioners, directors, or substantial shareholders nor any affiliated persons own shares of the controlled company. If the share ownership in the controlled company is over 50% (fifty percent), the financial report must be consolidated;
 - c. Transactions involving a company or a controlled company with an affiliated person when:
 - 1> The relationship and the type of transactions existed before the company made a public offering and this relationship and its continuing nature was fully disclosed in the initial offering prospectus; or
 - 2> The relationship and the type of transactions are initiated after the public offering with the approval of more than 50% (fifty percent) of the company's shareholders who do not have a conflict of interest in the transactions.
 - d. Transactions between a company and its employees as well as with the employees of the controlled company and transactions between the controlled company and its employees as well as with the employees of the company on the same terms as long as it is disclosed to BAPEPAM, shareholders, and all employees. The transactions also include benefits provided by a company or controlled company on the same terms to all employees according to the policy of the company as disclosed to BAPEPAM, shareholders, and all employees;

180

UNOFFICIAL TRANSLATION

RULE NUMBER IX.D.1

CONFLICTS OF INTEREST ON CERTAIN TRANSACTIONS

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- e. The use of any facilities provided by the company or controlled company to commissioners, directors, and substantial shareholders who are also employees, that is directly related to their responsibilities to the company and is in accord with the company policy that is submitted to BAPEPAM as information to the public ;
 - f. Compensation, including salary, contribution to pension funds, and or any other special benefits given to commissioners, directors and substantial shareholders who are also employees when the aggregate of such compensation is disclosed in periodic financial statements;
 - g. Purchases of land and or houses from a commissioner, director, substantial shareholder or any person known by them to be affiliated at the time, in an amount less than Rp. 1 billion and .5% of the company's net asset value in conformity with the most recent audited financial statements. Such purchases must be in accord with a company policy that applies to all employees and has been disclosed to BAPEPAM, shareholders, and employees. Purchases in which there is a conflict of interest and that are in excess of Rp. 200,000,000 (two hundred million Rupiah) should be subject to an independent appraisal.
4. A notice of a general meeting of shareholders required to approve a transaction not exempted by Item 2 of this rule, must be published in at least 2 (two) Indonesian newspapers, 1 (one) of them having a national distribution, at least 30 (thirty) days prior to the meeting. The notice must include the information provided by Item 6 of this rule.
5. A copy of the published notices as referred to in Item 4 must be submitted to BAPEPAM no later than the end of the second working day after the publication.
6. The information that must be disclosed as referred to in Item 4 of this rule include:
- a. A description of the transaction, including, at least :
 - 1> The assets or services involved;
 - 2> The value of the transaction involved;

UNOFFICIAL TRANSLATION

RULE NUMBER IX.D.1

CONFLICTS OF INTEREST ON CERTAIN TRANSACTIONS

-
- 3> The name(s) of the parties to the transaction and their relationships to the company; and
 - 4> The nature of the conflict of interest of the person(s) involved in the transaction.
- b. A summary report from any designated independent person (if required);
 - c. The date, time, and location of the general meeting of shareholders and a statement with respect to eligibility to vote on this issue, in accordance with this rule;
 - d. Explanation of the justification for such transactions as opposed to other similar transaction in which there would be no conflict of interest;
 - e. A summary of any expert's or consultant's report, if deemed necessary by the Chairman of BAPEPAM.
 - f. The plan and data of the company and other important information in connection with the transactions effected.
7. In connection with transactions involving the acquisition or participation by a company of other companies which results in a conflict of interest, the company in addition to meeting requirements as referred to in Item 6 must also comply with the following procedure.
- 1> Designate an independent person to appraise as well as provide recommendations concerning the fairness of such acquisition or participation.
 - 2> The announcement as required in Item 4 also include the following information :
 - a> The company's plan to conduct an acquisition of or to participate in another company.
 - b> The data of the company to be acquired or that will receive participation, which includes, among other things the line of business and summary of important financial data.

- c> Description of the place/address that can be contacted by shareholders in order to obtain information concerning the company acquired or that will receive participation.
- 3> An audited financial report of the company to be acquired or which will receive participation for the last two (2) years. Should the company's establishment be less than two (2) years, the financial report shall be adjusted to the period of its establishment. In the event the time the decision to conduct an acquisition or participation is made in the general meeting of shareholders of the company is more than 180 (one hundred and eighty) days after the date of the last financial report, the interim financial report of the company that will be acquired or receive participation must be audited.

The provision in Item 7 also applies to companies that conduct divestiture, in which there is a conflict of interest.

8. At the time of the general meeting of shareholders of the company in connection with the acquisition participation, or divestiture, shareholders who have a conflict of interests must make a statement clarifying that all important and relevant information has been disclosed and the information is not misleading. Such information must be submitted to the Chairman of BAPEPAM, no later than the end of the second working day.

APPENDIX G:

EXCERPTS FROM INDONESIAN CAPITAL MARKET
COMPETENCY EXAMINATIONS REGISTRATION INFORMATION
BOOKLET FOR BROKER-DEALERS, UNDERWRITERS
AND INVESTMENT ADVISERS

II. INDIVIDUAL LICENSING REQUIREMENTS FOR UNDERWRITER REPRESENTATIVES, BROKER-DEALER REPRESENTATIVES, AND INVESTMENT ADVISORS - BAPEPAM KEP-36/PM/1991

ATTACHMENT:

DECISION OF THE CHAIRMAN OF BAPEPAM

NUMBER : KEP-36/PM/1991

DATE : 27 JULY 1991

RULE NUMBER V.B.1 INDIVIDUAL LICENSING REQUIREMENTS FOR UNDERWRITER REPRESENTATIVE, BROKER-DEALER REPRESENTATIVE OR INVESTMENT ADVISOR

1. INDIVIDUALS SUBJECT TO LICENSING BY THE CHAIRMAN OF BAPEPAM

ALL EMPLOYEES OF SECURITIES COMPANIES AND ALL INDIVIDUALS WHO OPERATE A BUSINESS AS AN INVESTMENT ADVISOR, EXCEPT THOSE PERSONS EXEMPTED BY PARAGRAPH 9 OF THIS RULE, MUST OBTAIN AN INDIVIDUAL LICENSE FROM THE CHAIRMAN OF BAPEPAM.

2. BASIS LICENSING

THE CHAIRMAN OF BAPEPAM SHALL GRANT A LICENSE TO AN INDIVIDUAL TO ACT AS AN UNDERWRITER REPRESENTATIVE, AS A BROKER-DEALER REPRESENTATIVE OR AN INVESTMENT ADVISOR, IF:

- A. THE CHAIRMAN OF BAPEPAM HAS NO REASON TO BELIEVE THAT THE APPLICANT WILL NOT PERFORM HIS DUTIES FAIRLY AND HONESTLY.
- B. THE APPLICANT HAS SATISFIED THE COMPETENCY REQUIREMENTS ESTABLISHED IN THIS RULE.
- C. THE APPLICANT HAS NOT BEEN DECLARED BANKRUPT AND DOES NOT HAVE SERIOUS FINANCIAL PROBLEMS THAT MAY JEOPARDIZE HIS ABILITY TO PERFORM HIS DUTIES FAIRLY AND HONESTLY.

3. EMPLOYMENT REQUIREMENT

AN INDIVIDUAL WHO HAS RECEIVED AN INDIVIDUAL LICENSE MAY ACT AS AN UNDERWRITER REPRESENTATIVE, BROKER-DEALER REPRESENTATIVE OR PERFORM THE FUNCTIONS OF AN INVESTMENT MANAGER ONLY IF HE IS EMPLOYED BY A LICENSED SECURITIES COMPANY.

4. PROHIBITION OF MULTI EMPLOYMENT

LICENSED INDIVIDUALS MAY NOT BE EMPLOYED BY OR ACT ON BEHALF OF MORE THAN ONE SECURITIES COMPANY.

5. LICENSE OF INVESTMENT ADVISORS

AN INDIVIDUAL WHO PERFORMS THE FUNCTIONS OF AN INVESTMENT MANAGER FOR A SECURITIES COMPANY MUST HAVE AN INDIVIDUAL LICENSE AS AN INVESTMENT ADVISOR.

6. LICENSING OF UNDERWRITER REPRESENTATIVES

AN INDIVIDUAL WHO IS GRANTED AN INDIVIDUAL LICENSE AS AN UNDERWRITER REPRESENTATIVE MAY ALSO ACT AS A BROKER-DEALER REPRESENTATIVE. AN INDIVIDUAL LICENSE AS AN UNDERWRITER REPRESENTATIVE IS REQUIRED ONLY FOR DIRECTORS AND EMPLOYEES OF A SECURITIES COMPANY WHO ARE ENGAGED IN THE NEGOTIATION OF UNDERWRITING CONTRACTS.

7. LIMITATION ON INVESTMENT ADVISORY ACTIVITIES UNDER CERTAIN LICENSES

INDIVIDUALS WHO HAVE BEEN GRANTED EITHER AN UNDERWRITER'S REPRESENTATIVE OR A BROKER-DEALER'S REPRESENTATIVE INDIVIDUAL LICENSE BUT WHO DO NOT HAVE AN INDIVIDUAL LICENSE AN INVESTMENT ADVISOR MAY ENGAGE IN INVESTMENT ADVISORY ACTIVITIES ONLY TO THE EXTENT THAT SUCH ACTIVITY IS SOLELY INCIDENTAL TO THE CONDUCT OF THEIR BUSINESS OF DEALING IN SECURITIES AND NO SPECIAL COMPENSATION IS RECEIVED FOR THE INVESTMENT ADVISORY SERVICES.

185

8. **AUTOMATIC CANCELLATION OF LICENSES**

ALL INDIVIDUAL LICENSES ISSUED BY THE CHAIRMAN OF BAPEPAM, EXCEPT FOR A LICENSE AS AN INVESTMENT ADVISOR, SHALL BE AUTOMATICALLY CANCELED IF AN INDIVIDUAL IS NOT EMPLOYED BY A SECURITIES COMPANY FOR A PERIOD EXCEEDING 24 (TWENTY FOUR) CONSECUTIVE MONTHS.

9. **INDIVIDUALS EXEMPTED FROM LICENSING**

INDIVIDUALS WHOSE WORK IS LIMITED TO ANY OR ALL OF THE FOLLOWING FUNCTIONS ARE NOT REQUIRED TO BE LICENSED UNDER ARTICLE I OF THIS RULE:

- A. INDIVIDUALS WHO WORK IN A SECURITIES COMPANY WHOSE FUNCTIONS ARE SOLELY CLERICAL OR ADMINISTRATIVE;
- B. INDIVIDUALS WHOSE CONNECTION WITH A SECURITIES COMPANY IS FOR PRESTIGE PURPOSES OR AS A REPRESENTATIVE OF FINANCIAL BACKERS OF THE COMPANY;
- C. INDIVIDUALS ASSOCIATED WITH A SECURITIES COMPANY WHOSE FUNCTION RELATES EXCLUSIVELY TO EFFECTING TRANSACTIONS ON A SECURITIES EXCHANGE, IN ACCORDANCE WITH THE PROCEDURES AND RULES ESTABLISHED BUT THE SECURITIES EXCHANGE;
- D. INDIVIDUALS DEALING EXCLUSIVELY IN EXEMPT SECURITIES.
- E. INDIVIDUALS ENGAGED IN NEGOTIATING UNDERWRITING CONTRACTS WHO ARE NOT EMPLOYEES OF SECURITIES COMPANIES AND WHO ARE REGISTERED WITH BAPEPAM AS SUPPORTING PROFESSIONALS;
- F. INDIVIDUALS WHO ARE NOT EMPLOYEES OF SECURITIES COMPANIES WHO PUBLISH ANALYSIS OR REPORTS ABOUT SECURITIES, WITHOUT SPECIAL COMPENSATION, AND NOT AS A REGULAR BUSINESS;
- G. INDIVIDUALS WHO ARE NOT EMPLOYEES OF SECURITIES COMPANIES AND WHO ADVISE 15 (FIFTEEN) OR LESS PERSONS ABOUT SECURITIES FOR A FEE, OR 16 (SIXTEEN) OR MORE PERSONS, WITHOUT SPECIAL COMPENSATION;
- H. INDIVIDUALS WHO ARE NOT EMPLOYEES OF SECURITIES COMPANIES AND WHO MANAGE INVESTMENT PORTFOLIOS WITHOUT SPECIAL COMPENSATION;
- I. EMPLOYEES OF INSURANCE COMPANIES OR PENSION FUNDS WHO MANAGE INVESTMENT PORTFOLIOS AS PART OF THE COMPANY'S BUSINESS;
- J. EMPLOYEES OF ORGANIZATIONS THAT PUBLISH REPORTS OR ANALYSIS ABOUT SECURITIES AS BUSINESS, IF SUCH EMPLOYEES THEMSELVES ARE NOT OFFICIALLY RESPONSIBLE FOR THE PREPARATION OF SUCH REPORTS OR ANALYSIS, AND WORK UNDER THE SUPERVISION OF A PERSON WHO IS LICENSED AS AN INVESTMENT ADVISOR;
- K. WRITERS WHO PUBLISH CURRENT ANALYSIS OR REPORTS ABOUT PARTICULAR SECURITIES PUBLISHED IN THE MASS MEDIA OR IN BOOKS OF GENERAL DISTRIBUTION, UNLESS SUCH WRITERS PUBLISH RECOMMENDATIONS ABOUT SPECIFIC SECURITIES REGULARLY AND REPEATEDLY;
- L. PROFESSIONAL WRITERS THAT REGULARLY PUBLISH ARTICLES OR BOOKS ABOUT SECURITIES AND INVESTMENT TECHNIQUES THAT ARE GENERAL IN NATURE, WITHOUT REFERENCE, DIRECTLY OR INDIRECTLY, TO SPECIFIC SECURITIES, OR THAT MERELY REPORT PAST SECURITIES PRICE MOVEMENTS, MARKET THAT MERELY REPORT PAST SECURITIES' PRICE MOVEMENTS, MARKET CONDITIONS, OR ACTIONS OF ISSUERS, WITHOUT MAKING CURRENT RECOMMENDATIONS REGARDING THE INVESTMENT MERITS OF SPECIFIC ISSUES.

10. **BASIS FOR MEETING COMPETENCY REQUIREMENTS**

COMPETENCY REQUIREMENTS FOR GRANTING AN INDIVIDUAL LICENSE MAY BE EVALUATED ON THE BASIS OF A WRITTEN TEST WHICH IS ADMINISTERED BY THE COMMITTEE OF PROFESSIONAL STANDARDS OR BY THE BOARD OF EXAMINERS ESPECIALLY FORMED BY THE COMMITTEE OF PROFESSIONAL STANDARDS. FULFILLMENT OF COMPETENCY REQUIREMENTS ON THE BASIS OF EXPERIENCE DEPENDS OF THE DISCRETION OF THE CHAIRMAN OF BAPEPAM.

186

II. COMPETENCY REQUIREMENTS ON THE BASIS OF EXPERIENCE

IN ORDER TO FULFIL THE COMPETENCY REQUIREMENTS ON THE BASIS OF WORK EXPERIENCE AS REFERRED TO IN ARTICLE 10 OF THIS RULE, THE PERSON MUST PRESENT PROOF OF EMPLOYMENT BY ONE OR MORE SECURITIES COMPANIES, OR SIMILAR COMPANIES ENGAGED IN DEALING IN SECURITIES OR MANAGING INVESTMENTS IN SECURITIES, FOR A PERIOD OF AT LEAST THREE YEARS.

- A. SUCH WORK EXPERIENCE MAY BE IN ANY COUNTRY THAT HAS AN ACTIVE, ORGANIZED, AND REGULATED CAPITAL MARKET.**
- B. TO BE VALID FOR A SPECIFIC INDIVIDUAL LICENSE, WORK EXPERIENCE IS REQUIRED AS FOLLOWS:**
 - 1. UNDERWRITER REPRESENTATIVE : THE APPLICANT MUST HAVE AT LEAST ONE YEAR OF EXPERIENCE IN ORGANIZING AND MANAGING UNDERWRITING OPERATIONS, ONE YEAR OF EXPERIENCE IN SECURITIES ANALYSIS, AND ONE YEAR OF EXPERIENCE IN BROKER-DEALER OPERATIONS;**
 - 2. BROKER-DEALER REPRESENTATIVE : THE APPLICANT MUST HAVE AT LEAST ONE YEAR OF EXPERIENCE IN SECURITIES ANALYSIS, ONE YEAR OF EXPERIENCE IN BROKER-DEALER OPERATIONS, AND ONE YEAR OF EXPERIENCE IN SECURITIES MARKETING AND SALES;**
 - 3. INVESTMENT ADVISOR : THE APPLICANT MUST HAVE AT LEAST TWO YEARS OF EXPERIENCE IN SECURITIES ANALYSIS AND ONE YEAR OF EXPERIENCE IN PORTFOLIO MANAGEMENT.**
- C. THE APPLICANT MUST PROVIDE AN EXPLANATION OF THE EMPLOYMENT, REFERRED TO IN ARTICLE 11 B OF THIS RULE INCLUDING THE NAME OF THE EMPLOYER, THE PERIOD OF EMPLOYMENT, THE JOB TITLE, AND A DETAILED DESCRIPTION OF THE APPLICANT'S RESPONSIBILITIES IN THE JOB. COPIES OF DOCUMENTARY EVIDENCE, SUCH AS LETTERS OF RECOMMENDATION OR PERFORMANCE EVALUATIONS, MAY BE ATTACHED.**
- D. THE APPLICANT MAY PROVIDE SUPPORTING INFORMATION REGARDING HIS QUALIFICATIONS FOR THE LICENSE, SUCH AS A PROFESSIONAL LICENSE OR AN OFFICIAL LICENSE FROM ANOTHER COUNTRY, MEMBERSHIP OF PROFESSIONAL ASSOCIATIONS, AWARDS, OR UNIVERSITY DEGREES.**

12. COMMITTEE OF PROFESSIONAL STANDARDS

THE WRITTEN TEST REFERRED TO IN ARTICLE 10 OF THIS RULE, SHALL BE UNDER THE JURISDICTION OF A COMMITTEE OF PROFESSIONAL STANDARDS APPROVED BY BAPEPAM FOR EACH TYPE OF INDIVIDUAL LICENSE. SUCH TESTS SHALL BE CONDUCTED AT LEAST EVERY THREE MONTHS.

- A. THE COMMITTEE OF PROFESSIONAL STANDARDS FOR EACH TYPE OF INDIVIDUAL LICENSE HAS THE FOLLOWING TASKS AND RESPONSIBILITIES:**
 - 1. PREPARE THE CURRICULUM AND SYLLABUS FOR THE MATERIAL TO BE EXAMINED;**
 - 2. PREPARE A WRITTEN STUDY GUIDE OF ALL THE MATERIALS TO BE EXAMINED;**
 - 3. SUPERVISE AND ADMINISTER THE EXAMINATION SYSTEM**
- B. THE COMMITTEE OF PROFESSIONAL STANDARDS SHALL NOT BE AFFILIATED WITH PERSONS THAT ADMINISTER PROFESSIONAL TRAINING.**
- C. THE COMMITTEE OF PROFESSIONAL STANDARDS SHALL REPORT TO BAPEPAM AFTER EACH EXAMINATION ADMINISTRATION PERIOD IS OVER, CONCERNING:**
 - 1. THE PASSING QUALIFICATIONS FOR EACH EXAMINATION;**
 - 2. THE NUMBER OF APPLICANTS EXAMINED;**
 - 3. THE NUMBER OF THOSE WHO PASS AND THE NUMBER WHO FAIL;**
 - 4. THE NUMBER OF APPLICANTS WHO ARE REPEATING AN EXAMINATION.**
- D. THE AMOUNT OF THE EXAMINATION FEE AND THE PRICE OF THE STUDY GUIDE SHALL BE REASONABLE AND SUBJECT TO APPROVAL BY BAPEPAM.**

E. EACH COMMITTEE OF PROFESSIONAL STANDARDS SHALL ALSO PREPARE A COMPETENCY PROGRAM WITH THE FOLLOWING STIPULATIONS:

1. EACH PROGRAM SYLLABUS MUST COVER AT A MINIMUM, THE PRINCIPAL LAWS AND REGULATIONS GOVERNING THE INDONESIAN CAPITAL MARKET:

A. THE SYLLABUS FOR COMPETENCY AS AN UNDERWRITER REPRESENTATIVE MUST INCLUDE ALL THE SAME MATERIAL AS THE SYLLABUS FOR A BROKER-DEALER REPRESENTATIVE, PLUS SPECIAL MATERIAL RELATING TO THE FUNCTIONS OF UNDERWRITING:

B. THE SYLLABUS FOR COMPETENCY AS A BROKER-DEALER REPRESENTATIVE MUST INCLUDE MATERIALS ON INVESTMENT ANALYSIS PLUS MATERIALS ON THE PROCEDURES AND TECHNIQUES OF TRADING, SECURITIES ACCOUNTING, RULES AND OTHER REGULATIONS RELATED TO A SECURITIES EXCHANGE AND BROKER-DEALER'S OPERATIONS;

C. THE SYLLABUS FOR COMPETENCY AS AN INVESTMENT ADVISOR SHALL BE DIVIDED INTO TWO MAIN PARTS: INVESTMENT ANALYSIS AND PORTFOLIO MANAGEMENT;

2. A TEXT BOOK AND TRAINING SYLLABUS CONTAINING ALL THE MATERIALS ON WHICH THE EXAMINATION IS TO BE ADMINISTERED SHALL BE MADE AVAILABLE AT A REASONABLE COST TO ALL APPLICANTS.

3. A SYSTEM FOR ADMINISTRATION OF EXAMINATIONS SHALL BE FAIR AND IMPARTIAL.

4. A PROVISION MUST BE ESTABLISHED FOR EASY ACCESS TO THE TEXT BOOKS AND EXAMINATION SYSTEM BY ALL PERSONS WHO INTEND TO BE EMPLOYED BY SECURITIES COMPANIES OPERATING IN EACH REGION.

13. DENIAL OR LIMITATION OF AN INDIVIDUAL LICENSE

BAPEPAM MAY DENY, LIMIT, OR REVOKE, TEMPORARILY OR PERMANENTLY, AN INDIVIDUAL LICENSE TO ACT AS AN INVESTMENT ADVISOR, A BROKER-DEALER REPRESENTATIVE, OR AN UNDERWRITER REPRESENTATIVE, WHEN:

A. THE INDIVIDUAL DOES NOT MEET THE ESTABLISHED QUALIFICATIONS;

B. THE INDIVIDUAL HAS ENGAGED IN UNETHICAL OR IMPROPER PROFESSIONAL CONDUCT

C. THE INDIVIDUAL HAS VIOLATED OR AIDED OR ABETTED A VIOLATION OF ANY PROVISION OF THE CAPITAL MARKET DECREE.

14. RIGHT OF APPEAL

THE DECISION TO DENY, LIMIT, OR CANCEL AN INDIVIDUAL LICENSE SHALL BE TAKEN ONLY AFTER BAPEPAM HAS GIVEN AN OPPORTUNITY TO THE PERSON CONCERNED TO PRESENT HIS VIEW ON THE MATTER. THE INDIVIDUAL MAY APPEAL THE DECISION TO THE MINISTER OF FINANCE.

15. MISREPRESENTATION OF LICENSE

NO ONE MAY REPRESENT THAT AN INDIVIDUAL LICENSE GRANTED BY THE CHAIRMAN OF BAPEPAM IS IN ANY WAY AN ASSURANCE BY THE GOVERNMENT AS TO THE CORRECTNESS, VALIDITY, OR USEFULNESS OF ANY ASSERTION MADE BY SUCH LICENSEE REGARDING INVESTMENT IN SECURITIES, OR A STATEMENT THAT THE LICENSE IS ANY GUARANTEE OF THE HONESTY OR ETHICAL CONDUCT OF THE LICENSEE.

16. PROCEDURE OF SUBMITTING APPLICATION

AN APPLICATION FOR AN INDIVIDUAL LICENSE AS AN UNDERWRITER REPRESENTATIVE, A BROKER-DEALER REPRESENTATIVE OR AN INVESTMENT ADVISOR SHALL BE SUBMITTED TO THE CHAIRMAN OF BAPEPAM ON FORM V.B.1-1 ATTACHED, IN FIVE COPIES.

17. TRANSITIONAL REQUIREMENTS

INDIVIDUAL LICENSES FOR UNDERWRITER REPRESENTATIVES; BROKER-DEALER REPRESENTATIVES; OR INVESTMENT ADVISORS MAY BE GRANTED WITHOUT TAKING A COMPETENCY EXAMINATION UNTIL SUCH TIME WHEN THE FIRST TESTING IS AVAILABLE, WITH THE STIPULATION THAT THE APPLICANT SHALL SUBMIT A COMPETENCY CERTIFICATE WITHIN SIX

1588

MONTHS AFTER EXAMINATION PROCEDURES BECOME AVAILABLE, UNLESS SUCH INDIVIDUAL LICENSE HAS BEEN APPROVED ON THE BASIS OF EXPERIENCE

- A. THOSE WHO DO NOT SUBMIT A COMPETENCY CERTIFICATE WITHIN THE TIME PERIOD STATED ABOVE THEIR LICENSES SHALL AUTOMATICALLY BE INEFFECTIVE.
- B. PERSONS THAT HAVE BEEN EMPLOYED IN ANY ACTIVITY REQUIRING AN INDIVIDUAL LICENSE UNDER THIS RULE MAY CONTINUE TO BE EMPLOYED THROUGH DECEMBER 4, 1991.
- C. WITH THIS RULE BECOMING EFFECTIVE, ANY COMPANY ENGAGED IN SECURITIES AS REFERRED TO IN THE DECREE OF THE MINISTER OF FINANCE NUMBER: 1548/KMK.013/1990 SHALL MAKE ADJUSTMENTS TO THIS RULE.

18. THE FORMS USED ARE AS FOLLOWS:

- A. APPLICATION FOR AN INDIVIDUAL LICENSE MUST BE IN THE FORM AND WITH THE CONTENT STIPULATED IN FORM V.B.A-1.
- B. NOTIFICATION ON DEFICIENCIES IN AN APPLICATION FOR AN INDIVIDUAL LICENSE MUST BE IN THE FORM AND WITH THE CONTENT STIPULATED IN FORM V.B.1-2.
- C. THE DECISION OF THE CHAIRMAN OF BAPEPAM TO GRANT AN INDIVIDUAL LICENSE MUST BE IN THE FORM AND WITH THE CONTENT STIPULATED IN FORM V.B.1-3.
- D. THE DECISION OF THE CHAIRMAN OF BAPEPAM TO DENY AN APPLICATION FOR AN INDIVIDUAL LICENSE MUST BE IN THE FORM AND WITH THE CONTENT STIPULATED IN FORM V.B.1-4, AND THE DECISION MAY BE APPEALED TO THE MINISTER OF FINANCE WITHIN 15 (FIFTEEN) DAYS AFTER THE DECISION HAS BEEN ISSUED.
- E. THE DECISION OF THE CHAIRMAN OF BAPEPAM TO REVOKE AN INDIVIDUAL LICENSE MUST BE IN THE FORM AND WITH THE CONTENT STIPULATED IN FORM V.B.1-5, AND THE DECISION MAY BE APPEALED TO THE MINISTER OF FINANCE FIFTEEN (15) DAYS AFTER THE DECISION HAS BEEN ISSUED.
- F. FORM V.A.1-6 AND THE DECISION MAY BE APPEALED TO THE MINISTER OF FINANCE WITHIN 15 (FIFTEEN) DAYS AFTER THE DECISION HAS BEEN ISSUED.

BROKER-DEALER REPRESENTATIVE COMPETENCY EXAMINATION

PART I

SYLLABUS

THIS DOCUMENT CONTAINS A COMPLETE SUBJECT LISTING OF THE AREAS OF STUDY REQUIRED FOR THOSE PREPARING FOR THE BROKER-DEALER COMPETENCY EXAMINATION.

THE MAJOR AREAS THAT WILL BE TESTED ARE LISTED, TOGETHER WITH THE RELATIVE WEIGHING OF THESE AREAS ON THE ACTUAL EXAMINATION.

THE EXAMINATION WILL CONSIST OF 75 MULTIPLE CHOICE QUESTIONS. ONE HOUR AND THIRTY MINUTES IS THE TIME ALLOCATED TO COMPLETE THE EXAMINATION. APPLICANTS MUST BRING THEIR ADMISSION TICKET TO THE EXAMINATION SITE WHERE THEY WILL BE ASKED TO PRESENT THEIR CITIZENSHIP IDENTIFICATION.

NO PRINTED MATERIALS OF ANY KIND MAY BE TAKEN INTO THE TESTING ROOM. PAPER OR SCRAP WORK WILL BE PROVIDED. APPLICANTS SHOULD BRING A SIMPLE CALCULATOR WITHOUT A TAPE-PRINTING DEVICE OF ANY KIND. THE CALCULATOR CANNOT HAVE THE ABILITY TO ENTER, STORE OR RETRIEVE ALPHA CHARACTERS (LETTERS OF THE ALPHABET). PLEASE ALSO BRING 2 PENCILS THE TEST SITE.

THIS EXAMINATION WILL TEST FIVE MAJOR SUBJECT AREAS. THESE AREAS ARE LISTED BELOW WITH THE APPROXIMATE PERCENTAGE OF THE EXAMINATION THAT WILL BE DEVOTED.

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| CAPITAL MARKET DECREES (PRESIDENTIAL DECREE NO. 53 OF 1990 DECREE OF THE MINISTER OF FINANCE NO. 1548) | 27% |
| CODE OF ETHICS | 13% |
| FINANCIAL ANALYSIS/CORPORATE FINANCE | 17% |
| BROKERAGE OPERATIONS AND TRADING (KEP-OI/PM/1991) | 10% |
| SECURITIES PRODUCT KNOWLEDGE | 33% |

RESULTS OF THE TEST WILL BE REPORTED BY THE PROFESSIONAL STANDARDS COMMITTEE TO ALL THOSE WHO HAVE COMPLETED THE EXAMINATION.

PART II

SAMPLE QUESTIONS

THESE QUESTIONS ARE OFFERED AS SAMPLES ONLY. THEY WILL NOT NECESSARILY APPEAR ON THE COMPETENCY EXAMINATION BUT ARE USED TO DEMONSTRATE SEVERAL DIFFERENT WAYS IN WHICH QUESTIONS WILL BE PRESENTED.

EVERY EFFORT HAS BEEN MADE TO HAVE ONLY ONE CORRECT ANSWER TO EACH QUESTION. IF YOU DO NOT THINK ANY OF THE ANSWERS IS PRECISELY CORRECT, CHOOSE THE ANSWER YOU THINK IS CLOSEST TO CORRECT.

1. A STOCK SELLING FOR Rp. 3,700 AND PAYING AN ANNUAL DIVIDEND OF Rp. 260 HAS A CURRENT YIELD OF, APPROXIMATELY:
- A. 5%
 - B. 6%
 - C. 7%
 - D. 8%

2. **DECLARATION OF A CASH DIVIDEND AFFECTS WHICH OF THE FOLLOWING?**

- I. **CURRENT ASSETS**
- II. **FIXED ASSETS**
- III. **CURRENT LIABILITIES**
- IV. **SHAREHOLDERS' EQUITY**

- A. **I ONLY**
- B. **II AND IV ONLY**
- C. **III AND IV ONLY**
- D. **I, II, III AND IV**

3. **TRANSACTION FEES ARE CHARGED AT THE RATE OF:**

- A. **1% (1/100)**
- B. **.1% (1/1,000)**
- C. **.01% (1/10,000)**
- D. **.001% (1/100,000)**

4. **A Rp. 1,000,000 BOND WITH A 15% INTEREST RATE PAYS QUARTERLY INTEREST IN THE AMOUNT OF:**

- A. **Rp. 3,700**
- B. **Rp. 15,000**
- C. **Rp. 37,500**
- D. **Rp. 150,000**

5. **MONEY-MARKET INSTRUMENTS ARE GENERALLY CONSIDERED TO HAVE A MAXIMUM MATURITY OF:**

- A. **SIX MONTHS**
- B. **ONE YEAR**
- C. **FIVE YEARS**
- D. **TWELVE YEARS**

ANSWERS AND EXPLANATIONS TO SAMPLE QUESTIONS:

- 1. A. **CURRENT YIELD IS DERIVED BY DIVIDING A SECURITY'S ANNUAL PAYMENT BY ITS CURRENT PRICE. $260/3700 = 7.0\%$**
- 2. C. **THE DECLARATION AFFECTS CURRENT LIABILITIES (WHICH ARE INCREASED) AND STOCKHOLDERS EQUITY (WHICH IS REDUCED). THE LATER PAYMENT OF THE DIVIDEND WILL REDUCE CASH, CURRENT ASSETS AND TOTAL ASSETS, AND CURRENT LIABILITIES.**
- 3. B. **THE TRANSACTION FEE IS 1/10 OF 1% OR .1% ARTICLE 51, KEP-01/PM/1991**
- 4. C. **THE ANNUAL INTEREST WOULD BE Rp. 150,000 ($15\% \times 1,000,000$), BUT THE QUESTION ASKED FOR THE QUARTERLY PAYMENT WHICH IS 1/4 OF THAT AMOUNT.**
- 5. B. **RIGHTS HAVE A LIFE OF APPROXIMATELY ONE MONTH. WARRANTS MAY LAST 10 YEARS OR MORE. DOMESTIC BONDS HAVE MATURITIES OF FROM 5 TO 12 YEARS. FOREIGN BONDS HAVE MATURITIES OF 30 YEARS OR MORE. THE "MONEY" MARKET IS COMPRISED OF RELATIVELY SHORT TERM DEBT OR DEBT-LIKE INSTRUMENTS HAVING MAXIMUM MATURITIES OF ONE YEAR. THE "CAPITAL" MARKET IS LONGER TERM**

STUDY GUIDE

CAPITAL MARKET DECREES (2796)**PRESIDENTIAL DECREE No. 53 OF 1990 RE CAPITAL MARKET**

STUDENTS MUST BE FAMILIAR WITH THE ENTIRE DECREE, WITH PARTICULAR EMPHASES ON:

- | | | | |
|------------|---|--------------------------------------|---|
| CHAPTER I | - | ARTICLE 1 | GENERAL PROVISIONS |
| CHAPTER II | - | ARTICLE 2 THROUGH 11 | CAPITAL MARKET SUPERVISORY AGENCY (BAPEPAM) |
| CHAPTER IV | - | INVESTMENT FUNDS | |
| CHAPTER V | - | SECURITIES COMPANIES AND INDIVIDUALS | |
| CHAPTER IX | - | PROHIBITED TRANSACTIONS | |

**MINISTERIAL DECREE OF THE REPUBLIC OF INDONESIA
NUMBER 1548/KMK.013/1990**

STUDENTS SHOULD BE FAMILIAR WITH THE ENTIRE DECREE, WITH PARTICULAR EMPHASES ON:

- | | | | |
|--------------|---|--|---|
| CHAPTER I | - | ARTICLE 1 | DEFINITIONS |
| CHAPTER II | - | ARTICLES 2 THROUGH 9 | AUTHORITY AND FUNCTIONS OF THE CAPITAL MARKET SUPERVISORY AGENCY (BAPEPAM) |
| SECTION III | - | RULE MAKING PROCEDURES - ARTICLE 40 THROUGH 45 | |
| SECTION IV | - | REPORTING REQUIREMENTS - ARTICLE 46-47 | |
| CHAPTER IV | - | INVESTMENT FUNDS - ARTICLE 51 AND 52 | |
| SECTION II | - | LICENSING PROCEDURES - ARTICLES 53 THROUGH 56 | |
| SECTION III | - | MANAGEMENT AND GOVERNANCE OF LICENSED INVESTMENT FUNDS - ARTICLE 60 THROUGH 70 | |
| CHAPTER V | - | SECURITIES COMPANIES AND INDIVIDUALS INVOLVED IN THE SECURITIES BUSINESS - ARTICLES 71 THROUGH 91 | |
| SECTION V | - | PUBLIC REGISTERS OF LICENSE HOLDERS - ARTICLES 92 AND 93 | |
| CHAPTER VI | - | CAPITAL MARKET SUPPORTING INSTITUTIONS - ARTICLES 94, 99 THROUGH 105 | |
| PARAGRAPH II | - | CUSTODIAN DUTIES FOR AN INVESTMENT FUND - ARTICLE 107 | |
| SECTION II | - | SECURITIES ADMINISTRATION AGENCIES - ARTICLES 108 THROUGH 113 | |
| SECTION III | - | TRUST-AGENTS - ARTICLES 114 THROUGH 120 | |
| SECTION IV | - | GUARANTORS - ARTICLES 121 & 122 | |
| CHAPTER VIII | - | BUSINESS CONDUCT OF SECURITIES COMPANIES AND INVESTMENT ADVISORS - ARTICLES 134 THROUGH 138 | |
| SECTION IV | - | CONDUCT OF SECURITIES COMPANIES ACTING AS BROKER-DEALERS - ARTICLES 146 THROUGH 155 | |

CHAPTER X

PROHIBITED SECURITIES TRANSACTIONS

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|-------------|---|
| SECTION I | FRAUD AND DECEIT - ARTICLE 179 |
| SECTION II | MARKET MANIPULATION - ARTICLES 180 THROUGH 186 |
| SECTION III | FALSE OR MISLEADING OR MANIPULATIVE STATEMENTS - ARTICLES 187, 188 AND 189 |
| SECTION IV | INSIDER TRADING - ARTICLES 190 THROUGH 196 |
| SECTION V | PROHIBITED OPERATIONS AND TRANSACTIONS OF INVESTMENT FUNDS - ARTICLES 197 THROUGH 202 |

FINANCIAL ANALYSIS/CORPORATE FINANCE (1796)

BALANCE SHEET ANALYSIS

CALCULATION OF:

- WORKING CAPITAL
- CURRENT RATIO
- CAPITALIZATION RATIOS
- BOOK VALUE

EFFECT ON BALANCE SHEET OF:

- DECLARATION OF CASH DIVIDEND
- PAYMENT OF CASH DIVIDEND
- SALE AND LEASE-BACK OF FIXED ASSETS AT A DISCOUNTED FROM BOOKED VALUE

INCOME STATEMENT ANALYSIS

CALCULATION OF:

- MARGIN OF PROFIT
- EXPENSE RATION
- CASH FLOW
- EARNING PER SHARE

OTHER FINANCIAL RATIOS

- PAYOUT RATIO
- CURRENT YIELD (STOCKS AND BONDS)
- PRICE/EARNINGS RATIO (PER)
- ACCRUED INTEREST ON BONDS (GENERAL CONCEPT ONLY)
- MEASURING INCREASE (DECREASE) IN PORTFOLIO VALUE

THE BASIC OF CAPITAL BUDGETING AND CASH FLOW ESTIMATES

DISCOUNTED CASH FLOWS ANALYSIS

RISKS AND RATES OF RETURN

LEASE FINANCING

CAPITAL MANAGEMENT

- RISK ANALYSIS AND THE OPTIMAL CAPITAL BUDGET
- CAPITAL STRUCTURE THEORY AND POLICY
- DIVIDEND POLICY
- WORKING CAPITAL POLICY AND FINANCING
- CORPORATE RESTRUCTURING

FINANCIAL PLANNING AND CONTROL

SOURCES OF MONEY FOR BUSINESS ACTIVITY

- COMMON AND PREFERRED STOCK AND INVESTMENT BANKING PROCESS
- LONG TERM DEBT
- CASH AND MARKETABLE SECURITIES
- ACCOUNTS RECEIVABLE AND INVENTORY

BROKERAGE OPERATION AND TRADING (11096)

TEST-TAKERS ARE RESPONSIBLE FOR THE FULL CONTENTS OF "DECISION OF THE CHAIRMAN OF THE CAPITAL MARKET SUPERVISORY BOARD - NUMBER: KEPOI/PM/1991"

PARTICULAR ATTENTION SHOULD BE PAID TO THE FOLLOWING:

| | | |
|------------|---|---|
| ARTICLE 1 | : | ROUND LOTS AND ODD LOTS |
| ARTICLE 5 | : | TRADING DAYS AND HOURS |
| ARTICLE 7 | : | MARKET, LIMIT AND DISCRETIONARY ORDERS |
| ARTICLE 8 | : | REJECTION OF ORDERS/EFFECTIVE UNTIL CANCELED ORDERS |
| ARTICLE 25 | : | MEMBER RESPONSIBILITIES |
| ARTICLE 27 | : | TRADE CONFIRMATIONS |
| ARTICLE 29 | : | MAINTENANCE OF RECORDS |
| ARTICLE 30 | : | RESPONSIBILITIES OF AN ISSUER |
| ARTICLE 31 | : | DOCUMENT RETENTION |
| ARTICLE 34 | : | BROKER-DEALER ABSENCES |
| ARTICLE 39 | : | TRADE SETTLEMENT |
| ARTICLE 40 | : | DELAYED DELIVERIES |
| ARTICLE 41 | : | DAMAGED CERTIFICATES |
| ARTICLE 44 | : | SUBSTITUTE CERTIFICATES |
| ARTICLE 45 | : | LOST CERTIFICATES |
| ARTICLE 46 | : | REGISTRATION |
| ARTICLE 51 | : | COMMISSIONS AND TRANSACTION FEES |

SECURITIES PRODUCT KNOWLEDGE (13396)

- PRIMARY VS SECONDARY MARKETS
- ACTING AS BROKER (AGENCY TRADING) VS ACTING AS DEALER (PRINCIPAL TRADING)
- MARKET RISK VS. NON-SYSTEMATIC RISK
- ARBITRAGE (GENERAL CONCEPT ONLY)
- QUOTATIONS (BID/ASKED)
- RIGHTS AND WARRANTS
- OPTIONS (DEFINITIONS OF PUTS AND CALLS ONLY)
- MARGIN TRADING (CONCEPT ONLY) RISKS AND REWARDS
- MEASURING MARKETS - AVERAGE AND INDEXES

- *SHORT SELLING (BASIC UNDERSTANDING) RISKS AND REWARDS*
- *MONEY-MARKET INSTRUMENTS*
- *YIELD CURVES - NORMAL AND INVERTED*
- *TECHNICAL ANALYSIS - SUPPORT (DEMAND) AND RESISTANCE (SUPPLY)*
- *STOCKS*

COMMON VS PREFERRED STOCKS
VALUING STOCK PORTFOLIOS
RISKS AND REWARDS OF INVESTING IN COMMON STOCKS

- *BONDS*

EQUITY VS DEBT SECURITIES
COUPON RATES
YIELD

NOMINAL YIELD (COUPON YIELD)
CURRENT YIELD FOR BOTH PREMIUM AND DISCOUNT PRICES
YIELD TO MATURITY (BASIC UNDERSTANDING)

- *CALLABLE BONDS*

- *CONVERTIBLE BONDS*

ADVANTAGES AND DISADVANTAGES
CONVERSION PRICE
CONVERSION RATIO
CALLABLE CONVERTIBLE BONDS

- *EFFECT OF CHANGES IN GENERAL INTEREST RATES ON SECONDARY MARKET BOND PRICES*
- *INSTITUTIONAL ACTIVITIES IN THE SECONDARY BOND MARKET (ACTIVE - INACTIVE) AND REASONS THEREFORE*

REFERENCE INTEREST RATES

BUKU REFERENSI YANG DIANJURKAN UNTUK DIBACA BAGI PESERTA PERANTARA-PEDAGANG EFEK:
RECOMMENDED READING LIST FOR BROKER-DEALER CANDIDATES:

1. **PERATURAN PASAR MODAL - EDISI 1992**
Penerbit: Yayasan Mitra Dana
2. **PERATURAN BURSA EFEK JAKARTA**
Penerbit: PT. Bursa Efek Jakarta
3. **KODE ETIK ANGGOTA IKATAN PIALANG EFEK JAKARTA**
Penerbit: Ikatan Pialang Efek Jakarta
4. **ACCOUNTING PRINCIPLES - Last Edition**
By: Niswonger & Fess
Publisher: South Western Publishing Co.
5. **INVESTMENT - 1989 Edition**
By: Zvi Bodie, Alex Kane, Alan J. Marcus
Publisher: Richard D. Irwin Inc.
6. **THE HANDBOOK OF FIXED INCOME SECURITIES - 3rd Edition 1991**
By: Frank J. Fabozzi, T. Dossa Fabozzi, Irving M. Pollak
Publisher: Business One Irwin

UNDERWRITER REPRESENTATIVE COMPETENCY EXAMINATION

PART I

SYLLABUS

THIS DOCUMENT CONTAINS A COMPLETE SUBJECT LISTING OF THE AREAS OF STUDY REQUIRED FOR THOSE PREPARING FOR THE UNDERWRITER REPRESENTATIVE COMPETENCY EXAMINATION.

THE MAJOR AREAS THAT WILL BE TESTED ARE LISTED, TOGETHER WITH THE RELATIVE WEIGHING OF THESE AREAS ON THE ACTUAL EXAMINATION.

THE EXAMINATION WILL CONSIST OF 75 MULTIPLE CHOICE QUESTIONS. ONE HOUR AND THIRTY MINUTES IS THE TIME ALLOCATED TO COMPLETE THE EXAMINATION. APPLICANTS MUST BRING THEIR ADMISSION TICKET TO THE EXAMINATION SITE WHERE THEY WILL BE ASKED TO PRESENT THEIR CITIZENSHIP IDENTIFICATION.

NO PRINTED MATERIALS OF ANY KIND MAY BE TAKEN INTO THE TESTING ROOM. PAPER FOR SCRAP WORK WILL BE PROVIDED. APPLICANTS SHOULD BRING A SIMPLE CALCULATOR WITHOUT A TAPE-PRINTING DEVICE OF ANY KIND. THE CALCULATOR CANNOT HAVE THE ABILITY TO ENTER, STORE OR RETRIEVE ALPHA CHARACTERS (LETTERS OF THE ALPHABET). PLEASE ALSO BRING 2 PENCILS THE TEST SITE.

THIS EXAMINATION WILL TEST SIX MAJOR SUBJECT AREAS. THESE AREAS ARE LISTED BELOW WITH THE APPROXIMATE PERCENTAGE OF THE EXAMINATION THAT WILL BE DEVOTED.

| | |
|-----------------------------|-----|
| UNDERWRITING | 30% |
| FINANCIAL MANAGEMENT | 20% |
| LEGAL ASPECTS | 10% |
| ASSETS APPRAISAL/ACCOUNTING | 20% |
| ETHICS | 10% |
| PORTFOLIO MANAGEMENT | 10% |

RESULTS OF THE TEST WILL BE REPORTED BY THE PROFESSIONAL STANDARDS COMMITTEE TO THOSE WHO COMPLETE THE EXAMINATION.

PART II

SAMPLE QUESTIONS

THESE QUESTIONS ARE OFFERED AS SAMPLES ONLY. THEY WILL NOT NECESSARILY APPEAR ON THE COMPETENCY EXAMINATION BUT ARE USED TO DEMONSTRATE SEVERAL DIFFERENT WAYS IN WHICH QUESTIONS WILL BE PRESENTED.

EVERY EFFORT HAS BEEN MADE TO HAVE ONLY ONE CORRECT ANSWER TO EACH QUESTION. IF YOU DO NOT THINK ANY OF THE ANSWERS IS PRECISELY CORRECT, CHOOSE THE ANSWER YOU THINK IS CLOSEST TO CORRECT.

- I. AN UNDERWRITER REPRESENTATIVE'S LICENSE WILL BE CANCELED IF HE/SHE IS NOT EMPLOYED BY A SECURITIES COMPANY FOR MORE THAN:
 - A. 3 MONTHS
 - B. 6 MONTHS
 - C. 12 MONTHS
 - D. 24 MONTHS

2. AN UNDERWRITER REPRESENTATIVE WHO IS NOT LICENSED AS AN INVESTMENT ADVISOR MAY ENGAGE IN INVESTMENT ADVISORY ACTIVITIES UNDER WHICH TWO OF THE FOLLOWING:
 - I. WHEN SUCH BUSINESS IS SOLELY INCIDENTAL TO THEIR SECURITIES DEALING BUSINESS
 - II. WHEN COMPENSATION FOR SUCH SERVICES REPRESENTS LESS THAN 20% OF THEIR TOTAL BUSINESS INCOME.
 - III. WHEN ONLY BONDS OR STOCKS ARE RECOMMENDED FOR PURCHASE

196

- IV. WHEN NO SPECIAL COMPENSATION IS RECEIVED FOR THE INVESTMENT ADVISORY SERVICES
- A. I AND II
 - B. I AND IV
 - C. II AND III
 - D. III AND IV
3. A COMPANY EARNING Rp. 575 PER SHARE AND TRADING IN THE OPEN MARKET AT Rp. 8,650 HAS A PRICE-EARNINGS RATIO (PER) OF:
- A. 6.6
 - B. 15
 - C. 49.7
 - D. (CANNOT BE DETERMINED FROM INFORMATION GIVEN)
4. BAPEPAM APPROVES SECURITIES:
- A. ONLY 45 DAYS OR MORE AFTER THE REGISTRATION STATEMENT HAS BEEN SUBMITTED
 - B. HAVING PRICE-EARNINGS RATIOS MORE THAN 50% LESS THAN THE AVERAGE PER OF STOCKS ON THE JSE
 - C. ONLY AFTER THEY HAVE BEEN LISTED FOR MORE THAN ONE YEAR
 - D. UNDER NO CIRCUMSTANCES
5. SALES LITERATURE MAY CONTAIN FORECASTS WHICH:
- I. ARE CLEARLY WARRANTED
 - II. CONCERN ONLY PROJECTIONS FOR LESS THAN 5 YEARS
 - III. ARE LABELLED AS FORECASTS
 - IV. CONTAIN PROMISES OF SPECIFIC EARNINGS AND DIVIDENDS
- A. II AND III ONLY
 - B. I AND III ONLY
 - C. II AND IV ONLY
 - D. I AND IV ONLY

ANSWERS AND REFERENCES FOR SAMPLE QUESTIONS

1. D RULE NUMBER V.B.1
2. B RULE NUMBER V.B.1
3. B THE PER IS DERIVED BY DIVIDING CURRENT PRICE BY EARNINGS PER SHARE. $8,650/575 = 15$
4. D ARTICLE 170 - DECREE OF THE MINISTER OF FINANCE No. 1548
5. B RULE NUMBER X.C.1

APPROVED TRAINING SCHOOLS

(UNDERWRITER ASSOCIATION - APPROVED SCHOOLS SHOULD BE LISTED HERE, WITH ADDRESSES AND TELEPHONE NUMBERS)

PART III

STUDY GUIDE

NOTE: CANDIDATES FOR UNDERWRITER REPRESENTATIVE MUST ALSO BE REGISTERED AS BROKER-DEALER REPRESENTATIVES (BDR'S). SINCE THE BDR COMPETENCY EXAMINATION TESTS BOTH PRESIDENTIAL DECREE NO. 53 OF 1990 AND MINISTERIAL DECREE 1548 RATHER EXTENSIVELY, ONLY SELECTED PORTIONS OF THOSE DECREES WILL BE TESTED ON THIS EXAMINATION. THOSE SELECTED PORTIONS, PARTICULARLY RELEVANT TO UNDERWRITERS, ARE LISTED IN THE "SUBJECT MATTER" SECTION WHICH FOLLOWS.

SUBJECT MATTER

PRESIDENTIAL DECREE NO. 53 OF 1990

CHAPTER II - CAPITAL MARKET SUPERVISORY AGENCY
ARTICLE 9

MINISTERIAL DECREE OF THE REPUBLIC OF INDONESIA NO. 1548

CHAPTER I - DEFINITIONS - ARTICLE I

CHAPTER V

SECTION I - LICENSING OF SECURITIES COMPANIES - ARTICLE 75

SECTION II - OBLIGATIONS OF CAPITAL MARKET SUPPORTING PROFESSIONALS - ARTICLE 128

SECTION III - CONDUCT OF SECURITIES COMPANIES ACTING AS UNDERWRITERS - ARTICLES 139 THROUGH 145

CHAPTER IX

SECTION I - REGISTRATION OF PUBLIC OFFERINGS AND PUBLIC COMPANIES - ARTICLES 162 THROUGH 165

SECTION II - REGISTRATION PROCEDURE - ARTICLE 166, 167, 168

SECTION III - THE PROSPECTUS AND ADVERTISING - ARTICLES 167 THROUGH

SECTION IV - PERIODIC DISCLOSURES BY ISSUERS AND PUBLIC COMPANIES - ARTICLES 173 AND 174

SECTION V - THE PUBLIC OFFERING OF AN INVESTMENT FUND ARTICLES 175 THROUGH 178

CHAPTER XI - SANCTIONS AND APPEALS - ARTICLES 214, 215, 216

THE FOLLOWING RULES, FROM THE DECREE, ARE ALSO IMPORTANT TO KNOW:

RULE NUMBER V.B.1

INDIVIDUAL LICENSING REQUIREMENTS FOR UNDERWRITER REPRESENTATIVE, BROKER-DEALER REPRESENTATIVE OR INVESTMENT ADVISOR

RULE NUMBER IX.A.5

PROCEDURE FOR POSTPONEMENT OF A PUBLIC OFFERING

RULE NUMBER IX.B.2

GUIDELINES CONCERNING THE FORM AND CONTENT OF A PROSPECTUS FOR PUBLIC OFFERING

RULE NUMBER IX.B.3

GUIDELINES CONCERNING THE FORM AND CONTENT OF A SUMMARY PROSPECTUS

INVESTMENT ADVISOR COMPETENCY EXAMINATION

PART I

SYLLABUS

THIS DOCUMENT CONTAINS A COMPLETE SUBJECT LISTING OF THE AREAS OF STUDY REQUIRED FOR THOSE PREPARING FOR THE INVESTMENT ADVISOR COMPETENCY EXAMINATION.

THE MAJOR AREAS THAT WILL BE TESTED ARE LISTED, TOGETHER WITH THE RELATIVE WEIGHING OF THESE AREAS ON THE ACTUAL EXAMINATION.

THE EXAMINATION WILL CONSIST OF 75 MULTIPLE CHOICE QUESTIONS. ONE HOUR AND THIRTY MINUTES IS THE TIME ALLOCATED TO COMPLETE THE EXAMINATION. APPLICANTS MUST BRING THEIR ADMISSION TICKET TO THE EXAMINATION SITE WHERE THEY WILL BE ASKED TO PRESENT THEIR CITIZENSHIP IDENTIFICATION.

NO PRINTED MATERIALS OF ANY KIND MAY BE TAKEN INTO THE TESTING ROOM. PAPER OR SCRAP WORK WILL BE PROVIDED. APPLICANTS SHOULD BRING A SIMPLE CALCULATOR WITHOUT A TAPE-PRINTING DEVICE OF ANY KIND. THE CALCULATOR CANNOT HAVE THE ABILITY TO ENTER, STORE OR RETRIEVE ALPHA CHARACTERS (LETTERS OF THE ALPHABET). PLEASE ALSO BRING 2 PENCILS TO THE TEST SITE.

THIS EXAMINATION WILL TEST SEVEN MAJOR SUBJECT AREAS. THESE AREAS ARE LISTED BELOW WITH THE APPROXIMATE PERCENTAGE OF THE EXAMINATION THAT WILL BE DEVOTED.

| | |
|---------------------------------|-----|
| ETHICS AND PROFESSION STANDARDS | 10% |
| FINANCIAL ACCOUNTING | 19% |
| ECONOMICS | 10% |
| QUANTITATIVE ANALYSIS | 10% |
| FIXED-INCOME ANALYSIS | 12% |
| EQUITY ANALYSIS | 19% |
| ASSET MANAGEMENT | 20% |

RESULTS OF THE TEST WILL BE REPORTED BY THE PROFESSIONAL STANDARDS COMMITTEE TO ALL THOSE WHO HAVE COMPLETED THE EXAMINATION.

PART II

SAMPLE QUESTIONS

THESE QUESTIONS ARE OFFERED AS SAMPLES ONLY. THEY WILL NOT NECESSARILY APPEAR ON THE COMPETENCY EXAMINATION BUT ARE USED TO DEMONSTRATE SEVERAL DIFFERENT WAYS IN WHICH QUESTIONS WILL BE PRESENTED.

EVERY EFFORT HAS BEEN MADE TO HAVE ONLY ONE CORRECT ANSWER TO EACH QUESTION. IF YOU DO NOT THINK ANY OF THE ANSWERS IS PRECISELY CORRECT, CHOOSE THE ANSWER YOU THINK IS CLOSEST TO CORRECT.

1. A SHARP INCREASE IN INTEREST RATES WILL HAVE WHICH EFFECT ON THE PRICES OF LONG-TERM BONDS?
 - A. BOND PRICES WILL DECREASE SLIGHTLY
 - B. BOND PRICES WILL DECREASE SHARPLY
 - C. BOND PRICES WILL INCREASE SLIGHTLY
 - D. BOND PRICES WILL INCREASE SHARPLY

2. A CONVERTIBLE PREFERRED STOCK, PAR VALUE 100, IS CONVERTIBLE AT 1.25. IF THE UNDERLYING COMMON STOCK IS TRADING AT 50, WHAT IS PARITY FOR THE CONVERTIBLE PREFERRED?
 - A. 1.25
 - B. 125
 - C. 2,000
 - D. (CANNOT BE DETERMINED WITHOUT KNOWING THE PAR VALUE OF THE UNDERLYING COMMON STOCK)

3. A BOND'S YIELD TO MATURITY AND ITS NOMINAL YIELD (COUPON RATE) WILL BE EQUAL WHEN:
 - A. INTEREST RATES ARE RISING SHARPLY
 - B. INTEREST RATES ARE FALLING SHARPLY
 - C. THE BOND IS CONVERTIBLE
 - D. THE BOND IS TRADING AT ITS PAR VALUE (NO PREMIUM OR DISCOUNT)

4. AN INVESTMENT ADVISOR MAY GUARANTEE A CLIENT A SPECIFIC RESULT ONLY WHEN:
 - A. RECOMMENDING SENIOR SECURITIES SUCH AS PREFERRED STOCKS/AND/OR BONDS
 - B. THE CLIENT HAS HAD PREVIOUS EXPERIENCE IN THE SECURITIES/MARKETS
 - C. HE/SHE WILL PAY FOR ANY TRADING LOSSES IN THE ACCOUNT
 - D. (UNDER NO CIRCUMSTANCES)

5. MARKET RISK CAN BE MINIMIZED BY PURCHASING:
 - A. ONLY LOW PER (PRICE EARNINGS RATION) STOCKS IN THE SAME INDUSTRY
 - B. ONLY HIGH PER STOCKS IN THE SAME INDUSTRY
 - C. STOCKS IN DIFFERENT INDUSTRIES
 - D. THE STOCK OF A SINGLE WELL-CAPITALIZED COMPANY

ANSWERS AND REFERENCES FOR SAMPLE QUESTIONS

1. B . THE PRICES OF BONDS AND INTEREST RATES VARY INVERSELY. WHEN INTEREST RATES INCREASE, THE PRICE OF OUTSTANDING BONDS GO DOWN. THE LONGER-TERM BONDS ARE MUCH MORE AFFECTED THAN THE SHORTER-TERM BONDS.

2. B THE CONVERSION RATIO IS 2.5 WHICH IS DERIVED FROM DIVIDING THE CONVERTIBLE STOCK'S PAR VALUE BY THE CONVERSION PRICE OF 40. $100/40 = 2.5$ PARITY FOR THE STOCK PREFERRED WILL BE $2.5 \times$ THE PRICE OF THE COMMON STOCK, OR 125. $2.5 \times 50 = 125$.

3. D THE ONLY TIME A BOND'S NOMINAL YIELD (INTEREST RATE), CURRENT YIELD AND YIELD TO MATURITY ARE EQUAL IS WHEN THE BOND IS TRADING AT 100 (FACE VALUE).

4. D NO SPECIFIC RESULTS CAN EVER BE GUARANTEED.

5. C THIS PROVIDES DIVERSIFICATION.

APPROVED TRAINING SCHOOLS

(INVESTMENT ADVISORS ASSOCIATION-APPROVED TRAINING SCHOOLS SHOULD BE LISTED HERE WITH ADDRESS AND TELEPHONE NUMBERS)

PART III

STUDY GUIDE

- I. ETHICS AND PROFESSIONAL STANDARDS

- A. INDONESIAN SECURITIES LAW AND REGULATION
 - I. BAPEPAM - AUTHORITY AND FUNCTION
 - A. THE CAPITAL MARKET DECREE OF DECEMBER 1990
 - B. APPROVAL OF STOCK EXCHANGES
 - C. LICENSING AND REGISTRATIONS OF MARKET PARTICIPANTS
 - D. INSPECTION
 - E. RECORD KEEPING REQUIREMENTS

- F. **REGISTRATION REQUIREMENTS**
 - 1. **REQUIRED INFORMATION**
 - 2. **ACCURACY AND OBJECTIVITY OF INFORMATION PROVIDED**
 - 3. **RESPONSIBILITY FOR FALSE AND MISLEADING STATEMENTS**
- G. **ADVERTISING RESTRICTIONS**
- H. **SANCTIONS AND PENALTIES**

ETHICAL CONSIDERATION

- 1. **COMPLIANCE WITH ALL RULES AND REGULATIONS OF BAPEPAM AND SELF-REGULATORY ORGANIZATIONS**
 - A. **KNOWLEDGE OF ESSENTIAL RULES AND REGULATIONS**
 - B. **OBLIGATION TO MAINTAIN FAMILIARITY WITH RULE AND REGULATION REVISIONS**
- 2. **PROHIBITIONS AGAINST TAKING PART IN OR ASSISTING IN ETHICAL OR LEGAL VIOLATIONS**
- 3. **PROHIBITIONS AGAINST THE USE OF MATERIAL NON-PUBLIC INFORMATION**
- 4. **RESPONSIBILITY OF SUPERVISORS**
 - A. **ASSURE THAT SUBORDINATES ARE PROPERLY TRAINED AND HAVE KNOWLEDGE OF APPROPRIATE REGULATIONS**
 - B. **REASONABLE SUPERVISION OVER SUBORDINATES TO ASSURE COMPLIANCE WITH STANDARDS**
- 5. **RESEARCH REPORTS AND INVESTMENT RECOMMENDATION**
 - A. **DUE DILIGENCE AND THOROUGHNESS IN MAKING INVESTMENT RECOMMENDATIONS**
 - B. **REASONABLE AND ADEQUATE BASIS FOR RECOMMENDATIONS**
 - C. **MAINTENANCE OF APPROPRIATE RECORDS TO SUPPORT CLAIMS FOR PERFORMANCE**
- 6. **PORTFOLIO RECOMMENDATIONS AND ACTIONS**
 - A. **CLIENT NEEDS AND CIRCUMSTANCES**
 - B. **CHARACTERISTICS OF INVESTMENT RECOMMENDED**
 - C. **CHARACTERISTICS OF TOTAL PORTFOLIO**
- 7. **PROHIBITIONS AGAINST PLAGIARISM**
- 8. **FAIR DEALINGS WITH CUSTOMERS AND CLIENTS**
 - A. **FAIRNESS IN DISSEMINATING RECOMMENDATIONS OR CHANGES IN PRIOR INVESTMENT ADVICE**
 - B. **PRIORITY OF TRANSACTIONS**
- 9. **DISCLOSURE OF CONFLICTS OF INTEREST**
 - A. **OWNERSHIP OF SECURITIES RECOMMENDED**
 - B. **FINANCIAL INTEREST IN ANY ASPECT OF RECOMMENDATION**
- 10. **COMPENSATION**
 - A. **DISCLOSURE OF ADDITIONAL COMPENSATION ARRANGEMENTS**
 - B. **DISCLOSURE OF REFERRAL FEES**
- 11. **RELATIONSHIPS WITH OTHERS**
 - A. **PRESERVATION OF CONFIDENTIALITY**
 - B. **MAINTENANCE OF INDEPENDENCE**
 - C. **FIDUCIARY DUTIES**
- 12. **PROFESSIONAL MISCONDUCT**

- II. **FINANCIAL ACCOUNTING**
 - A. **GENERALLY ACCEPTED ACCOUNTING PRINCIPALS (GAAP)**
 - I. **DEFINITION**
 - B. **BALANCE SHEET ANALYSIS**
 - 1. **CURRENT ASSETS**
 - 2. **NON CURRENT (FIXED) ASSETS**
 - 3. **INTANGIBLE ASSETS**
 - 4. **CURRENT LIABILITIES**
 - 5. **LONGER TERM LIABILITIES**
 - 6. **STOCKHOLDERS EQUITY**
 - C. **INCOME STATEMENT ANALYSIS**
 - 1. **PROFIT MARGINS**
 - 2. **CASH FLOW**
 - 3. **EARNINGS PER SHARE**
 - 4. **TRANSFER TO ACCUMULATED RETAINED EARNINGS ACCOUNT**
- III. **ECONOMIC**
 - A. **BASIC SYSTEM OF ECONOMIC ANALYSIS**
 - 1. **CLASSICAL**
 - 2. **KEYNESIAN**
 - 3. **SOCIALIST**
 - 4. **MONETARIST**
 - 5. **"SUPPLY SIDE"**
 - B. **MACROECONOMIC CONSIDERATIONS**
 - 1. **EFFECTS OF INTEREST RATES ON ECONOMY**
 - 2. **EXCHANGE RATES**
 - 3. **CAPITAL GOODS VS CONSUMER GOODS**
 - 4. **INTERNATIONAL TRADE**
- IV. **QUANTITATIVE ANALYSIS**
 - A. **BASIC QUANTITATIVE ANALYTICAL TOOLS**
 - B. **BASIC STATISTICS**
 - 1. **STANDARD DEVIATION**
 - 2. **ARITHMETIC/GEOMETRIC MEANS**
 - C. **PROBABILITY THEORY (CONCEPT ONLY)**
- V. **FIXED INCOME ANALYSIS**
 - A. **TYPES OF FIXED INCOME SECURITIES**
 - 1. **SOVEREIGN ISSUES**
 - 2. **SUPRANATIONAL ISSUES**
 - 3. **CORPORATE BONDS**
 - 4. **ASSET BACKED SECURITIES**

- B. **CREDIT CONSIDERATIONS**
 - 1. **RATING AGENCIES**
 - 2. **"INVESTMENT GRADE" BONDS**
 - 3. **"HIGH YIELD" BONDS**

- C. **YIELDS**
 - 1. **COUPON YIELDS**
 - A. **FIXED RATE**
 - B. **EFFECT OF EARLY CALL ON YTM**
 - C. **YIELD-TO-CALL**

- D. **DURATION (CONCEPT ONLY)**

- E. **CONVEXITY (CONCEPT ONLY)**

- FIXED INCOME STRATEGIES**

- VI. **EQUITY ANALYSIS**
 - A. **COMMON STOCK (ORDINARY SHARES)**
 - 1. **BASIC CHARACTERISTICS**

 - B. **INDUSTRY ANALYSIS**
 - 1. **BASIC INDUSTRIES**
 - 2. **GROWTH INDUSTRIES**

 - C. **EVALUATING COMMON STOCKS**
 - 1. **EARNINGS**
 - A. **GROWTH**
 - B. **P/E RATIO**

 - 2. **DIVIDEND YIELD**
 - A. **EFFECTS OF RAISING DIVIDEND PAYMENT**
 - B. **EFFECTS OF LOWERING DIVIDEND PAYMENT**
 - C. **DIVIDEND PAYOUT RATION**

 - 3. **LIQUIDITY**

 - D. **CONVERTIBLE SECURITIES & WARRANTS**
 - 1. **CONVERTIBLE BONDS AND PREFERRED STOCKS**
 - 2. **WARRANTS**

 - E. **TECHNICAL ANALYSIS**
 - 1. **CHARTS**
 - 2. **PATTERNS**
 - A. **TYPICAL BULLISH PATTERNS**
 - B. **TYPICAL BEARISH PATTERNS**

 - 3. **VOLUME AND LIQUIDITY MEASURES**

F. EFFICIENT MARKET THEORY

1. WEAK, SEMI-STRONG, STRONG VERSIONS
2. THE RANDOM WALK

VII. ASSET MANAGEMENT

A. MODERN PORTFOLIO THEORY

1. DIVERSIFICATION
2. CAPITAL ASSET PRICING MODEL (CAPM)
3. HISTORIC RETURNS

- A. STOCKS
- B. BONDS
- C. CASH
- D. OTHER ASSETS

B. PORTFOLIO RISK MANAGEMENT

1. BETA COEFFICIENTS (CONCEPT ONLY)

C. ALLOCATING ASSETS IN ACCORDANCE WITH INVESTOR OBJECTIVES AND ABILITY TO ASSUME RISK