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PART II

Statutory Notifications (S. R. O.)

GOVERNMENT OF PAKISTAN
SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

NOTIFICATION

Islamabad, the 30th December, 2019

S.R.O. 1642 (I)/2019.—The following draft amendments to the Non-Banking Finance Companies and Notified Entities Regulations, 2008, proposed to be made by the Securities and Exchange Commission of Pakistan, in exercise of the powers conferred by sub-section (2) of section 282B of the Companies Ordinance, 1984 (XLVII) of 1984, are hereby published for information of all persons likely to be affected thereby and notice is hereby given that comments, if any, received within fourteen days of the date of this notification will be taken into consideration, namely:—

DRAFT AMENDMENTS

In the aforesaid Regulations,—

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

2973 (1—9)

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[2045(2019)/Ex.Gaz.]

- (a) after clause (xxi), the following new clause shall be inserted namely,—

“(xxi1) “infrastructure finance company (IFC)” means an NBFC, which deploys at least 70 per cent of its total assets in infrastructure finance for such infrastructure projects which the Commission may notify through circular, having minimum credit rating of A and is compliant with minimum equity and CAR requirement;”;

- (b) in the clause (xxxiva), for the word “prescribed” the word “notified” shall be substituted;

- (c) after clause (xxxiva), amended as aforesaid, the following new clause shall be inserted namely,—

“(xxxiva1) “Public Funds” include public deposits, inter-corporate deposits, bank finance and all funds received whether directly or indirectly from outside sources such as funds raised by issue of debentures, commercial papers etc.

*Explanation:—*for the purposes of this clause the expression “indirect receipt of public funds” means funds received through associates and group entities which have access to public funds;”;

- (d) after the clause (xl), the following new clause shall be inserted namely,—

“(xli) “small enterprise” and “medium enterprise (SME)” mean as under:

- (a) small enterprise:-a business entity not a public limited company that has annual turnover up to Rs. 150 million and employees (including contractual) less than 50;
- (b) medium enterprise:-a business entity that has annual turnover of more than Rs. 150 million but less than Rs. 800 million and number of employee (including contractual) between 51 to 100 for trading entity and between 51 to 250 for manufacturing or service entity”;

- (2) in regulation 10,—

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

“(aa) within ten days from the date of election of directors in a general meeting, the NBFC shall submit an application for appointment or reappointment of chief executive;”;

- (b) for clause (b), the following shall be substituted, namely:-

“(b) in case of occurrence of any casual vacancy in respect of a director or a chief executive, the NBFC shall submit an application within 10 days;”;

- (c) for clause (ba) the following shall be substituted, namely:-

“(ba) in case the Board of Directors of an NBFC decides to remove its chief executive before the expiration of his term of office or the chief executive decides to tender his resignation before the completion of his term of office or replacement of Chief Executive on completion of his term, the NBFC shall immediately inform the Commission along with reasons for the same:

Provided that the NBFC shall, within a period of seven days, submit an application complete in all respects, for obtaining approval of the Commission for appointment of the new chief executive;”;

- (3) in regulation 14, in sub-regulation (4), for clause (f) and the table, the following shall be substituted, namely:-

“(f) the deposits raised by NBFCs shall be capped in the following manner:

Credit Rating	Total Deposits from all sources including deposits from individuals, sole proprietors, provident / gratuity funds, trusts, charitable institutions and section 42 companies.	Deposits from individuals, sole proprietors, provident / gratuity funds, trusts, charitable institutions and section 42 companies.
AA and above	5 times of Equity	3 times of Equity
A to AA-	3 times of Equity	Equal to Equity
BBB+ to A-	2 times of Equity	-Nil-

Provided that an NBFC that becomes non-compliant due to revision of the above rating slabs, shall comply within a period of one year from coming into force of the revised rating slabs;”;

(4) in regulation 17, in sub-regulation (1),—

(a) after the first proviso, the following new proviso shall be inserted, namely:—

“Provided further that subject to the above specified limits, a small enterprise and a medium enterprise can avail finance maximum up to Rs. 25 million and Rs. 200 million (liquid assets under perfected lien of the NBFC may be deducted from the limits), respectively, from a single NBFC, bank or DFI, or from all NBFCs, banks or DFIs.”;

(b) after the third proviso for the full stop a colon shall be substituted and thereafter the following new proviso shall be inserted, namely:-

“Provided further that an infrastructure finance company (IFC), and a non-deposit taking NBFC that is not involved in retail lending and provides finance to other NBFCs or financial institutions, may exceed the above limits by up to 5% and 10%, respectively, of its equity.”;

(c) in sub-regulation (2), after the fourth proviso, the following new proviso shall be inserted, namely:-

“Provided further that an infrastructure finance company (IFC), and a non-deposit taking NBFC that is not involved in retail lending and provides finance to other NBFCs or financial institutions, may exceed the above limits by up to 5% and 10% of their equity, respectively.”; and

(d) after the sub-regulation 4, the following new sub-regulation shall be inserted, namely:-

“(5) This regulation shall not apply to an NBFC not accessing Public Funds in Pakistan.”;

(5) for regulation 18A, the following revised regulation shall be substituted, namely:-

- “18A. **Limit on Unsecured Finance.**—An NBFC may provide unsecured Finance up to Rs. 500,000/- (Rupees five hundred thousand only) to a single borrower. The aggregate unsecured Finance shall not exceed equity of the NBFC:

Provided that the total unsecured finance shall not exceed 50% of the equity of the deposit taking NBFC provided further that this Regulation shall not be applicable in case of Non-Bank Micro Finance Company:

Provided further that an NBFC may provide unsecured finance up to Rs. 2,000,000 to an SME subject to obtaining personal guarantees of its owners, partners or directors, as the case may be, and obtaining an undertaking from the SME to ensure that aggregate unsecured exposure to the SME does not exceed this limit:

Provided also that a non-deposit taking Lending NBFC may provide unsecured finance up to 5% (five percent) of its equity to a single commercial bank, microfinance bank and DFI having minimum credit rating of A- and a single NBFC having minimum credit rating of A by a credit rating agency registered with the Commission.”;

- (6) in regulation 19, in clause (e), after the proviso, the following new proviso shall be inserted, namely:-

“Provided further that a non-deposit taking Lending NBFC may also take exposure against unsecured debt security issued by microfinance banks and DFIs having minimum credit rating of A- and NBFCs having minimum credit rating of A by a credit rating agency registered with the Commission;”;

- (7) in regulation 21,—

- (a) for sub-regulation (2), the following shall be substituted, namely:-

- (2) In case of micro financing, the NBFC shall:

- (a) obtain a credit report from Credit Information Bureau of State Bank of Pakistan or any other appropriate credit information bureau before allowing any Finance exceeding Rs. 10,000/- or such other amount as may be specified by the

Commission through notification from time to time; and

- (b) comply with the requirements of State Bank of Pakistan regarding membership of Private Credit Bureaus under Credit Bureaus Act, 2015 within the time period stipulated by SBP and shall initiate data sharing accordingly.”;

- (b) after sub-regulation (5) and the table, the following new sub-regulations shall be inserted namely:-

“(5) in case of the borrower being a small enterprise, the NBFC may obtain a copy of financial statements duly signed by the borrower if the amount of finance does not exceed Rs. 15 million;

- (5B) in case of the borrower being a public company or a private company, which is subsidiary of a public company or a private company having paid up capital of three million rupees or more, the NBFC shall obtain copy of financial statements duly audited by a practicing chartered accountant, while in case of any other company, copy of financial statements audited by a practicing chartered accountant or a practicing cost and management accountant shall be obtained.”;

- (8) for regulation 25A, the following shall be substituted, namely:-

“25A. **Creation of General Provision against micro finance portfolio and finance to small enterprises.**- The NBFCs with micro finance portfolio and unsecured finance to SME borrowers shall maintain a General Provision equivalent to 0.5% of the net outstanding micro finance portfolio and 1% of the unsecured SME portfolio(Finance net of specific provisions for both), provided that general provision shall not be required in cases wherein Micro Finance is secured against liquid assets with appropriate margins.”; and

- (9) in regulation 28,-

- (a) in clause (e),—

- (i) in sub-clause (ii), after the words “prospective consumer” the words “and the income of co-borrower

can be clubbed after his written consent” shall be inserted;

(ii) in sub-clause (iii), after the words “purchase of” appearing for the first time, the words “constructed house or apartment or purchase of” shall be inserted;

(iii) for sub-clause (iv) and (v), the following shall be substituted, namely:-

“(iv) the maximum Loan-to-Value ratio shall not be more than 85% provided that for low cost housing the Loan-to-Value ratio shall not be more than 90%. To qualify for low cost housing, the borrower shall fulfill the following criteria: (1) Housing unit/apartment having maximum value of Rs. 3 million, (2) covered area of up to 850 sq. ft., and (3) loan size up to Rs. 2.7 million;

(v) extend Finance up to maximum tenor of 25 years in line with its duly approved credit policy that shall define the maximum tenure keeping in view the maturity profile of its assets & liabilities;”;

(iv) for sub-clause (vii) the following shall be substituted, namely:-

“(vii) either engage professional expertise or arrange sufficient training for their concerned officials to evaluate the property, assess the genuineness and integrity of the title documents, etc. provided that for housing finance involving property valuing more than Rs. 3 million, engaging professional valuer from list of approved valuers by Pakistan Bank’s Association shall be required. For the purpose of financing low cost housing units, NBFCs are allowed to apply the valuation of single unit on all the units of the same society/colony instead of conducting separate valuation for each unit constructed on the same layout and size;”;

(v) for sub-clause (ix) the following shall be substituted, namely:-

“(ix) arrange for the insurance/takaful of mortgaged property up to full value finance in case of apartment and up to construction cost in case of house from approved insurance companies;”;

(b) in clause (g),-

(i) after sub-clause (iii) the following new sub-clauses shall be inserted, namely:-

“(iiia) prior to entering into agreement, highlight to the prospective client, the key contractual terms and conditions and disclose in precise form detailed information including but not limited to:

- (a) mark-up rate-expected rate of mark-up that will be charged on the loan whether it is on fixed, variable or combination of fixed and variable rates.
- (b) financing details- disclose amount and term of loan along with number of installments and the amount to be paid for each installment. For the finance on variable mark-up rate, the NBFC shall inform the client that the total repayment amount will be based on the benchmark/reference rate (KIBOR, bank rate, etc.) agreed at the time of signing of finance agreement and that it is likely to be changed during the term of the finance.
- (c) lock-in Period and Early Settlement charges- Indicate Lock-in period, if any, along with a calculation of charges/penalties, if the loan facility is terminated before the end of the lock-in period.
- (d) fees and charges- Enlist applicable fees and charges, and their nature, including implied charges/penalties.
- (e) collateral- Specify nature of the property/asset/valuable required as collateral, where applicable.

- (f) contact details- Provide details of Grievance redressal system/mechanism;
- (iiib) adopt continuous disclosure during term of the loan contract in the following manner:-
 - (a) notice of changes- Notify the consumer in writing of any change in mark-up rate on a variable finance facility. This notification shall include: (a) the date from which the new rate applies; and (b) the revised repayment schedule.
 - (b) any other change, including but not limited to terms and conditions, features of product and the borrower's rights and obligations shall be communicated at least before a period of thirty days. The mode of notification should be in any agreed mode in addition to display at business premises and websites of NBFC.”;
- (ii) in sub-clause (v) the word “and” at the end shall be omitted; and
- (iii) in sub-clause (vi) after the semi-colon at the end, the word “and” shall be inserted and thereafter the following new sub-clause shall be inserted, namely:-
 - “(vii) comply with the guidelines issued by the Commission on Grievance Redressal System for the microfinancing clients;”.

[No. SCD/NBFC/NBFCR/2019.]

BILAL RASUL,
Secretary to the Commission.