



KARACHI STOCK EXCHANGE LIMITED

Stock Exchange Building, Stock Exchange Road, Karachi-74000
UAN: 111-001-122

KSE/N-3021

NOTICE

Dated: **May 13, 2013**

**ALL LISTED COMPANIES AND ISSUERS OF LISTED SECURITIES /
TREC HOLDERS OF THE EXCHANGE**

Subject: **Public Comments on the Draft Companies (Distribution of Specie Dividend) Regulations, 2013**

All the Listed Companies / Issuer of Listed Securities and TREC Holders of the Exchange are hereby informed that the Securities and Exchange Commission of Pakistan (SECP) has approved the draft Companies (Distribution of Specie Dividend) Regulations, 2013 (the "draft Regulations") for soliciting public feedback. Promulgation of these Regulations would facilitate companies to distribute securities of other companies as specie dividend subject to disclosure requirements and sufficient conditions for ensuring protection of investors and transparency.

The Draft Companies (Distribution of Specie Dividend) Regulations, 2013 have been notified in the Official Gazette of Pakistan vide Notification No. S.R.O. 348(I)/2013 dated May 2, 2013 and also placed at the Discussion Forum on the SECP's website at: <http://forum.secp.gov.pk/forum.php> for seeking comments / feedback on the draft Regulations.

It is requested that any comments / feedback on the draft Regulations be submitted online to SECP by May 23, 2013.

MUHAMMAD GHUFRAN | Deputy General Manager
Companies Affairs Department

Copy to:

The Managing Director
The Deputy Managing Director
All HoDs
Securities & Exchange Commission of Pakistan
Islamabad Stock Exchange Limited
Lahore Stock Exchange Limited
The CEO, National Clearing Company of Pakistan Limited
The CEO, Central Depository Company of Pakistan Limited
Notice Board-KSE
Website-KSE

PART-II

Statutory Notifications (S.R.O.)

Government of Pakistan

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

NOTIFICATION

Islamabad, the 2nd May, 2013

S.R.O. 348(I)/2013 In exercise of powers conferred by Section 506A of the Companies Ordinance, 1984 (XLVII of 1984) the following draft Regulations are hereby published for the information of all persons likely to be effected thereby and notice is hereby given that any objections or suggestions which may be received from any person in respect of the said draft, within twenty one days of its publication in the Official Gazette, shall be taken into consideration by the Securities and Exchange Commission of Pakistan.

CHAPTER I PRELIMINARY

- 1. Short title, commencement and applicability.**— (1) These Regulations shall be called the “Companies (Distribution of Specie Dividend) Regulations, 2013”.
 - (2) They shall come into force at once.
 - (3) They shall be applicable to public listed companies distributing as specie dividend either listed securities or securities that are eligible for listing on a registered stock exchange in Pakistan.

- 2. Definitions.**— (1) In these Regulations, unless there is anything repugnant in the subject or context, -

- (a) “Distributing Company” means a company which distributes or intends to distribute a Specie Dividend;
 - (b) “Net Assets” means total assets minus total liabilities;
 - (c) “Investee Company” means a company whose securities are distributed or to be distributed as Specie Dividend; and
 - (d) “Specie Dividend” means a non-cash dividend distributed in the form of securities of an Investee Company being held as investment by the Distributing Company.
- (2) Words and expressions used but not defined in these Regulations shall have the same meaning unless contrary to the context as are assigned to them in the Companies Ordinance, 1984 (XLVII of 1984) or the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997).

CHAPTER II

MANNER OF DISTRIBUTION OF SPECIE DIVIDEND

- 3. Eligibility for declaration of Specie Dividend.**— (1) A Distributing Company may declare a Specie Dividend subject to the following conditions;
- (a) the articles of association of the Distributing Company explicitly permit the distribution of Specie Dividend;
 - (b) the Distributing Company has sufficient realized profits for distribution of Specie Dividend;
 - (c) in case the Investee Company is an unlisted company, the Distributing Company has obtained a valuation report in terms of regulation 4;
 - (d) the proportion of distribution by the Distributing Company shall not exceed fifty percent of the proposed dividend for that financial year;
 - (e) the Distributing Company has obtained the approval of its shareholders to distribute Specie Dividend through an ordinary resolution;

- (f) the statement of business to be transacted along with the notice of general meeting is circulated by the Distributing Company to its shareholders and contain the minimum information as prescribed in Annexure-I of these regulations; and
- (g) it has not announced Specie Dividend in the last financial year.

(2) A Distributing Company may only make a distribution of Specie Dividend—

- (a) if the amount of its Net Assets is not less than the aggregate of its share capital and Un-distributable Reserves; and
- (b) if, and to the extent that the distribution does not reduce the amount of its Net Assets to less than the aggregate of its share capital and Un-distributable Reserves.

Explanation: For the purpose of this regulation, “Un-distributable Reserves” of the Distributing Company are:

- (a) its share premium account;
- (b) its redemption reserve;
- (c) the amount by which its accumulated, unrealized profits (excluding the amount utilized by capitalization) exceed its accumulated, unrealized losses (excluding the amount adjusted in a reduction or reorganization of capital);
- (d) any other reserve that the Distributing Company is prohibited from distributing by any provisions of law, or its by-laws.

4. Valuation of securities of an Investee Company. — (1) A valuation report in terms of clause (c) of sub-regulation (1) of regulation 3 shall only be valid for a period of three months, and shall be prepared by a valuer who—

- (a) is a firm of practicing chartered accountants having satisfactory quality control review awarded by the Institute of Chartered Accountants of Pakistan and is in Category A of the Panel of Auditors maintained by the State Bank of Pakistan; and
- (b) is not the statutory auditor of the Distributing Company or Investee Company and meets the independence requirement.

- (2) A person meets the independence requirement for the purposes of sub regulation (1) only if—
- (a) he is not—
 - (i) an officer or employee of the Distributing Company or Investee Company, or
 - (ii) an officer or employee of an associated undertaking of the Distributing Company or Investee Company; and
 - (b) there does not exist between—
 - (i) the person or an associate of his; and
 - (ii) the Distributing Company or the Investee Company or their associated undertakings,such relationship that would interfere in him exercising independent professional judgment as a valuer without being subservient to any apparent form of interference.

5. Conditions for distribution of Specie Dividend. — (1) When a dividend has been declared, it shall not be lawful for the Distributing Company to withhold or defer its distribution, and the chief executive of the Distributing Company shall be responsible to distribute the Specie Dividend in the manner provided in these Regulations.

(2) In case of distribution of listed securities, the distribution shall be made preferably in book-entry form within a period of fifteen days from the date of declaration and in case of distribution of unlisted securities as Specie Dividend within a period of forty five days from the date of declaration.

(3) In case of distribution of unlisted securities as Specie Dividend by a Distributing Company;

- (a) listing of securities proposed to be distributed as Specie Dividend shall be mandatory within a period of 90 days from the date of declaration;
- (b) a declaration shall be made by the board of directors that the securities proposed to be distributed as Specie Dividend meet the requirements of listing and a copy thereof, along with a copy of information memorandum, shall be attached and circulated along with the notice of the general meeting to the members of the Distributing Company;

- (c) a no objection certificate shall be obtained from the relevant stock exchange(s) for the listing of Investee Company. A copy of such no objection certificate shall be attached and circulated along with the notice of the general meeting to the members of the Distributing Company; and
- (d) the decision of the Distributing Company to issue Specie Dividend shall be communicated to the stock exchange(s) on the day of the decision along with a copy of information memorandum.

Provided that in case of failure to list securities of Investee Company for any reason, the Distributing Company shall, within a period of 30 days, encash the shares of the Investee Company at the option of the recipients at a price not less than the latest break-up value or face value or the value stated in the valuation report prepared in terms of regulation 4 or the price at which sponsor(s)/director(s) of the Distributing Company have purchased such shares in the last two years, whichever is higher.

CHAPTER III MISCELLANEOUS

6. Penalty. - Any person whosoever contravenes or fails to comply with any provision of these regulations, shall be liable to pay a penalty not exceeding a sum of five hundred thousand rupees and, where the contravention is a continuing one, with a further fine which may extend to ten thousand rupees for every day after the first during which such contravention continues.

CONTENTS OF INFORMATION MEMORANDUM

The Information Memorandum prepared with respect to distribution of Specie Dividend shall, *inter alia* contain the following information/disclosures:

- (i) On cover page the following shall be disclosed:
 - a. a disclaimer in bold letters stating that, “This is not a prospectus for issue of securities to the general public but a document prepared for the purpose of distribution of Specie Dividend. This Information Memorandum has not been approved by the Securities & Exchange Commission of Pakistan or the Stock Exchange(s)”;
 - b. a disclaimer in bold letters stating that, “The Board of Directors of ... (Name of the Issuing Company) ... accepts responsibility for accuracy of the information contained in this document”; and
 - c. name of the Company, name of the entity preparing the Information Memorandum and date of the Information Memorandum.
- (ii) Table of contents, executive summary, purpose of preparation of the Information Memorandum and the scope of work of the entity preparing Information Memorandum;
- (iii) Glossary of technical terms and acronyms shall be provided after the table of contents;
- (iv) Information about the Investee Company like its name, date of its incorporation, registration number, addresses of its registered & head office, its sponsors and major shareholders, associated companies/ undertakings etc.;
- (v) Latest pattern of shareholding of the Investee Company;
- (vi) Names of the directors of the Investee Company and their directorships in other companies;
- (vii) Profile of the management of the Investee Company including all the members of the board of directors , the chief financial officer and the company secretary;
- (viii) Organization structure of the Investee Company and its principle business;
- (ix) Future outlook/ business strategy of the Investee Company;

- (x) Highlights of major restructuring, if any, like merger, demerger, amalgamation, acquisition, reorganization, financial restructuring etc.;
- (xi) Present financial statements including total revenue, gross, operating and net profit for the year, EPS, breakup value total assets and total liabilities;
- (xii) Financial highlights of last five years, where applicable, relating to cash flows and financial & operating position of the Investee Company including key financial ratios like debt/equity ratio (pre & post issue), current ratio, return on equity, return on assets, earning per share; debt service coverage ratio, interest service coverage ratio etc. in tabular form;
- (xiii) Five years financial projections (i.e balance sheet, income statement, cash flow statement and statement on changes in equity) , where applicable, including key financial ratios of the Investee Company;
- (xiv) All risk factors associated with the investment in Investee Company and their mitigants;
- (xv) Basic information about the industry the Investee Company belongs to, key players in the industry, basic raw material used by the Investee Company, if any, and list of supplier thereof, main clients of the Investee Company, competitors of the Investee Company, etc.;
- (xvi) Summary of all the material contracts, if any; and
- (xvii) Information relating to the Investee Company's behavior towards servicing of existing debts i.e. the mark up and principal amount on existing term loans and debt market securities issued by it is paid on time.

Note: Any objections or suggestions on the proposed draft regulations may also be submitted on the Securities and Exchange Commission of Pakistan's Discussion Forum: <http://forum.secp.gov.pk/forum.php>

[No. SMD/SE/2(231)2012]

Bushra Aslam
Secretary to the Commission