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**SECURITIES AND EXCHANGE COMMISSION  
(PUBLIC ISSUE) RULES, 2006**

**NOTIFICATION**

Dated, the 20<sup>th</sup> February 2006

No. SEC/CMRRCD/2003-109/Admin-01/25- In exercise of the power conferred by section 33 of the Securities and Exchange Ordinance, 1969 (Ordinance XVII of 1969), and in supersession of the Public Issue Rules, 1998 made in this behalf, the Securities and Exchange Commission makes, with prior circulation, the following rules, namely:-

1. **Short title.** – These rules may be called the Securities and Exchange Commission (Public Issue) Rules, 2006.
2. **Definitions.** – <sup>1</sup>[(1) In these Rules, unless there is anything repugnant in the subject or context,-
  - (a) “associate” means any partner, employee or officer of a company or a body corporate over which the directors or subscribers to the Memorandum of Association and Articles of

<sup>1</sup> Substituted vide Notification No. SEC/CMRRCD/2008-186/Admin/03-29 dated 11<sup>th</sup> March 2009, which have been published in the Official Gazette on March 19, 2009.

Association can exercise significant influence or control;

- (b) “banker to the issue” means any bank so named in the prospectus to collect money as subscription against security;
- (c) “bidders” means the eligible institutional investors;
- (d) “book-building method” means the process by which an issuer attempts to determine the price to offer its security based on demand from institutional investors;
- (e) “Commission” means the Securities and Exchange Commission (SEC) established under the ~~mmKDwiUR~~ I G. tPA Kigkb AvBb, 1993 (1993 m<sup>3</sup>bi 15 bs AvBb);
- (f) “commission” means any money paid to any person in connection with the public offering of security under these Rules;
- (g) “cut-off price” means the lowest price offered by the bidders at which the total issue could be exhausted;
- (h) “floor price” means the lowest price of the price band within which the eligible institutional investors shall bid for security under book-building method;
- (i) “indicative price” means the price which the issuer indicates in the draft prospectus taking input from

the eligible institutional investors on which the bidders bid for final determination of price;

- (j) “initial public offering” means first offering of security by an issuer to the general public;
- (k) “merchant banker” means a merchant banker as defined in the *ৱাণিকDwiUR I G- tPÄ Kigkb (gvtPÄ e'vskvi I tcvUfdwvj I g'v'tbRvi) weagvj v, 1996*;
- (l) “non-resident Bangladeshi (NRB)” means an expatriate Bangladeshi or who has dual citizenship or possesses a foreign passport bearing an endorsement from the concerned Bangladesh Embassy to the effect that no visa is required for him to travel Bangladesh;
- (m) “price discovery” means a method of determining the price for a specific security through demand and supply factors related to the market;
- (n) “prospectus” means any document prepared for the purpose of communicating to the general public an issuer’s plan to offer for sale of its security under these Rules;
- (o) “public issue” means public issue of security through initial public offering or repeat public offering;
- (p) “registrar to the issue” means the merchant banker or any person employed by the issuer registered with or approved by the Commission for carrying on the activities in relation to an issue including collecting applications from investors, keeping

record of applications and money received from investors or paid to the seller of security, assisting in determining the basis of allotment of security, finalizing the list of persons entitled to allotment of security and processing and dispatching allotment letters, refund orders or certificates and other related documents;

- (q) “repeat public offering” means further public offering for issuance of additional security by an issuer which is either listed with a stock exchange or has raised capital earlier through public offering; and
- (r) “road show” means presentation by an issuer of security to potential investors about its issuance of security].
- (2) Words and expressions used herein and not defined, but defined in the Insurance Act, 1938 (Act No. IV of 1938), the Securities and Exchange Ordinance, 1969 (XVII of 1969), e'vsk tKv'vmb AvBb, 1991 (1991 m'tbi 14 b'f AvBb), *ৱাণিকDwiUR I G- tPÄ Kigkb AvBb, 1993* (1993 m'tj i 15 bs AvBb), *Am R cÄZôvb AvBb, 1993* (1993 m'tbi 27 b'f AvBb), *tKv'vmb AvBb, 1994* (1994 m'tbi 18 b'f AvBb), *WcURUw AvBb, 1999* (1999 m'tbi 11 b'f AvBb) shall have the same meanings respectively assigned to them in the said Acts and the Ordinance, and the Rules and Regulations issued thereunder.

<sup>1</sup>[3. **General requirements for filing application for consent to an issue of capital through public offering.**- (1) Application for consent under these Rules may be based on any of the following pricing methods:-

- (a) fixed price method;
- (b) book-building method.

(2) For obtaining the consent, an issuer shall apply to the Commission along with the following documents, namely:-

- (a) ten copies of the prospectus, duly completed, together with all annexes thereto, duly signed on each page, by the issuer's chief executive officer or managing director, chief financial officer, company secretary and issue manager. The chairman, the director and the chief executive officer or managing director of the issuer shall sign a declaration as prescribed in Annexure-A;
- (b) any amendment to the prospectus, signed by the said persons, shall also have to be filed with the Commission, in accordance with clause (a);
- (c) all stock exchanges shall be supplied simultaneously by the issuer with one copy of each of the said prospectus, together with its annexes, and the

amendments thereto, if any, duly signed by the persons who have signed prospectus submitted to the Commission;

- (d) the audited financial statements of the issuer must be submitted to the Commission along with the prospectus, but the said financial statements shall not be older than 120 days at the time of submission to the Commission.]

**4. Conditions to be fulfilled prior to making a Repeat Public Offering.** – An issuer of a listed security may make repeat public offering, subject to compliance with the following:-

- (1) Information concerning the repeat public offering shall be disseminated as a price sensitive information immediately upon Board decision as well as upon approval at the general meeting and approval of the Commission, in accordance with the relevant notifications issued by the Commission.
- (2) There should be an explicit announcement while disseminating the information under sub-rule (1) that the repeat public offering shall be subject to approval of the Commission.
- (3) Such offering and price thereof have been approved by the Board, the shareholders in a general meeting, and the consent to which is obtained from the Commission.
- (4) The proceed of either initial public offering or previous rights issue, as the case may be, has been utilized fully and relevant reports were duly submitted to the Commission.
- (5) Annual general meeting has been held regularly.

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<sup>1</sup> Substituted vide Notification No. SEC/CMRRCD/2008-186/Admin/03-29 dated 11<sup>th</sup> March 2009, which have been published in the Official Gazette on March 19, 2009.

- (6) The issue has been fully underwritten on a firm commitment basis by the underwriter.
- (7) The financial statements of the issuer is prepared as per International Accounting Standards (IAS) as applicable in Bangladesh, and audited as per International Standards of Auditing (ISA) as applicable in Bangladesh.
- (8) The issuer or any of its directors is not a bank defaulter.

**5. Publication of prospectus and opening of subscription list.-**

- (1) Upon receiving the consent of the Securities and Exchange Commission to the issue of capital under these Rules, the abridged version of the prospectus, as approved by the Commission, shall be published by the issuer in four national daily newspapers (in two Bengali and two English), within the time specified in the letter of consent issued by the Commission. The full prospectus shall, however, be posted on website of the SEC, stock exchanges, issuer and the issue manager.
- (2) The subscription list shall be opened and the sale of securities commenced after twenty five days of the publication of the abridged version of the prospectus and shall remain so open for the period as specified by the Commission.
- (3) Upon completion of the period of subscription for securities as mentioned in sub-rule (2), the issuer shall inform the Commission and the stock exchanges, within five working days of closure of such completion, in respect of the following matters, namely: -
  - (a) Total number of securities for which subscription has been received;
  - (b) Amount received from the subscription; and

- (c) Amount of commission paid to the banker to the issue.

**6. Prospectus delivery requirements.-** (1) Sufficient copies of prospectus shall be made available by the issuer so that any person requesting a copy may receive one.

- (2) The issuer shall post the prospectus vetted by the Securities and Exchange Commission in the issuer's websites and also put on the web sites of the Commission, stock exchanges, and the issue manager within three working days from the date of according consent and shall remain posted till the closure of the subscription list. The issuer shall submit to SEC, stock exchanges and the issue manager a diskette containing the text of the vetted Prospectus in "MS-Word" format.
- (3) A notice shall be placed on the front of the application form distributed in connection with the offering informing interested persons that they are entitled to a prospectus, if they so desire, and that copies of prospectus may be obtained from the issuer and the issue manager.
- (4) The subscription application shall indicate in bold type that no sale of securities shall be made, nor shall any money be taken from any person, in connection with such sale until twenty five days after the prospectus has been published.

**7. Limitation on the use of the prospectus.-** (1) A prospectus may be used to offer the securities until any of the following events occur, namely: -

- (a) There are material changes in any of the information included in the prospectus; and
- (b) Any transaction or event which is material to affect or change the conditions under which

the public offering is being made as per the contents of the prospectus and which should have otherwise been required to be reported to the Commission.

- (2) If any of the above events occur, the offering shall stand suspended until an amendment duly signed by all the directors of the issuer, the chief executive officers of both the issuer and the issue manager to the prospectus furnishing the appropriate information has been filed with and declared effective by the Securities and Exchange Commission.

- (3) The occurrence of any of the events mentioned in sub-rule (1) shall be notified to the general public after such declaration has been made effective by the SEC in four national daily newspapers in which the abridged version of the prospectus was published prior to the date of the opening of the subscription:

Provided that in case of there is any necessity for amendment to the prospectus during the subscription period, in that case, the subscription may be suspended by the Commission and the subscribers who have already deposited money with the banker to the issue may decide either to withdraw his application or continue with it.

- (4) A declaration under sub-rule (3) shall state in detail the nature of change or event which has occurred after the publication of the prospectus and shall be signed by all the directors of the company and the CEOs of the issuer company and the manager to the issue and a copy of the said declaration shall be submitted to the Commission.

## **8. Format and contents of the prospectus. –**

### **A . Material Information:**

- (1) In addition to the information specifically required by these Rules, the prospectus shall contain all material information necessary to enable investors to make an informed assessment of the business engaged in, or to be engaged in, by the company, its assets and liabilities, its financial position, its profits and losses and its future prospects and the rights attaching to the securities being offered and, in case of more than one project being included in the proposed public offering, separate full disclosure for each project.
- (2) The Commission may require disclosure of additional information in the prospectus as it considers appropriate in a particular offering, and the issuer shall comply it.
- (3) If the Commission requires such information, it shall inform the issuer of the additional information in writing.

### **B. Information to be included in the prospectus.-**

#### **(1) Cover Page of Prospectus:**

On the front cover page of the prospectus, the following information and statements shall be given, namely: -

- (a) Name of the issuer company;
- (b) Amount and type of securities being issued;
- (c) Offering price of the securities on a per unit and aggregate basis;

- (d) Opening and closing date of subscription including for NRBs;
- (e) Names and addresses of the underwriter;
- (f) Issue date of the prospectus;
- (g) The following statement: "If you have any query about this document, you may consult issuer, issue manager and underwriter"; and
- (h) The following statement in bold type face:

**"CONSENT OF THE SECURITIES AND EXCHANGE COMMISSION HAS BEEN OBTAINED TO THE ISSUE/OFFER OF THESE SECURITIES UNDER THE SECURITIES AND EXCHANGE ORDINANCE, 1969, AND THE SECURITIES AND EXCHANGE COMMISSION (PUBLIC ISSUE) RULES, 2006. IT MUST BE DISTINCTLY UNDERSTOOD THAT IN GIVING THIS CONSENT THE COMMISSION DOES NOT TAKE ANY RESPONSIBILITY FOR THE FINANCIAL SOUNDNESS OF THE ISSUER COMPANY, ANY OF ITS PROJECTS OR THE ISSUE PRICE OF ITS SECURITIES OR FOR THE CORRECTNESS OF ANY OF THE STATEMENTS MADE OR OPINION EXPRESSED WITH REGARD TO THEM. SUCH RESPONSIBILITY LIES WITH THE ISSUER, ITS DIRECTORS, CHIEF EXECUTIVE OFFICER/CHIEF FINANCIAL OFFICER, ISSUE MANAGER, UNDERWRITER AND/OR AUDITOR."**

**(2) Table of Contents:**

On the inside cover page of the prospectus,–

- (a) a detailed table of contents showing the various sections or subdivisions of the prospectus and the page number on which each such section or subdivision begins shall be given;
- (b) immediately preceding the table of contents, it shall be indicated that a prospectus may be obtained from the issuer company, issue manager, underwriter and stock exchanges; and
- (c) the address and telephone number of the company, the issue manager, the underwriters, the auditor and the stock exchanges.

**(3) Risk Factors and Management's Perception about the Risks:**

Immediately following the cover page of the prospectus, all risk factors and management's perception about the same are to be clearly stated which may include, among others,–

- (a) interest rate risks;
- (b) exchange rate risks;
- (c) industry risks;
- (d) market and technology-related risks;
- (e) potential or existing government regulations;
- (f) potential changes in global or national policies;
- (g) history of non operation, if any; and
- (h) operational risks.

**(4) Use of Proceeds:**

- (a) The prospectus shall show how the net proceeds of the offering shall be used, indicating the amount to be used for each purpose.
- (b) The prospectus shall also include a schedule mentioning the stages of implementation and utilization of funds received through public offering, mentioning about the approximate date of completion of the project and the projected date of full commercial operation. The schedule shall be signed by the chief executive officer and the chief financial officer of the issuer.
- (c) If there are contracts covering any of the activities of the issuer company for which the proceeds of sale of securities are to be used, such as contracts for the purchase of land or contracts for the construction of buildings, the prospectus shall disclose the terms of such contracts, and copies of the contracts shall be filed with the Commission as annexure to the prospectus.

**(5) Description of Business:**

- (a) The date on which the issuer company was incorporated and the date on which it commenced operations and the nature of the business which the company and its subsidiaries are engaged in or propose to engage in shall be stated in the prospectus.
- (b) The prospectus shall contain the information in respect of its business operation, for example: -

- (1) The principal products or services of the company and the markets for such products or services.
- (2) If the company has more than one product or service, the relative contribution to sales and income of each product or service that accounts for more than 10% of the company's total revenues.
- (3) Names of associates, subsidiary/related holding company and their core areas of business.
- (4) How the products or services are distributed.
- (5) Competitive conditions in the business.
- (6) Sources and availability of raw materials and the names of the principal suppliers.
- (7) Sources of, and requirement for, power, gas and water; or any other utilities.
- (8) Names of the customers who purchase 10% or more of the company's products /services.
- (9) Description of any contract which the company has with its principal suppliers or customers showing the total amount and quantity of transaction for which the contract is made and the duration of the contract.

- (10) Description of any material patents, trademarks, licenses or royalty agreements.
- (11) Number of total employees and number of full-time employees.
- (12) Production or service rendering capacity and current utilization, where applicable.

**(6) Description of Property:**

The prospectus shall contain the following information in respect of plants and property, namely; -

- (a) Location of the principal plants and other property of the company and the condition thereof.
- (b) Whether the property is owned by the company or taken on lease.
- (c) If the property is owned by the company, whether there is a mortgage or other type of lien on the property, with name of the mortgagor.
- (d) If the property is taken on lease, the expiration date of the lease with name of the lessor.

**(7) Plan of Operation and Discussion of Financial Condition:**

- (a) If the issuer has not started its commercial operation, the company's plan of operations for the period which would be required to start commercial operation shall be described in the prospectus which shall, among others, include:-

- (1) Projected financial statements up to the year of commercial operation certified by the auditor of the issuer; and
  - (2) Any expected significant changes in the number of employees.
- (b) If the issuer had been in operation, revenue from operation from each of the last three years, the issuer's financial position, changes in financial position and results of operations for each of the last three years shall be given in the prospectus which shall, among others, include the following information, to the extent material, namely; -
- (1) Internal and external sources of cash.
  - (2) Any material commitments for capital expenditure and expected sources of funds for such expenditure.
  - (3) Causes for any material changes from period to period in income, cost of goods sold, other operating expenses and net income.
  - (4) Any seasonal aspects of the company's business.
  - (5) Any known trends, events or uncertainties that shall have a material effect on the company's future business.
  - (6) Any change in the assets of the company used to pay off any liabilities.
  - (7) Any loan taken by the issuer from its holding/parent company or subsidiary company or loan given to aforesaid company, giving full details of the same.



- (8) Any future contractual liabilities the company might enter into within next one year, and the impact, if any, it would have on the company's financial fundamentals.
- (9) The estimated amount, where applicable, of future capital expenditure.
- (10) Any VAT, income tax, customs duty or other tax liability which is yet to be paid, including any contingent liabilities stating why the same was not paid prior to the issuance of the prospectus.
- (11) Details of any operating lease the company has entered into during the five years preceding the issuance of the prospectus, clearly indicating terms of the lease and how the company proposes to liquidate such lease.
- (12) Any financial commitment, including lease commitment, the company had entered into during the past five years, giving details as to how the liquidation was or is to be effected.
- (13) Details of all personnel related schemes for which the company has to make provision for in future years.
- (14) Break down of all expenses connected with the public issue showing specifically: -
  - (i) fee of issue manager; and
  - (ii) fee of underwriter.
- (15) If the issuer has revalued any of its assets, the name, qualification, work done to date by the valuer and the reason for the revaluation, showing the value of the assets prior to the revaluation, itemizing separately each asset revalued in a manner which shall facilitate comparison between the historical value and the amount shown after revaluation and giving a summary of the valuation report.
- (16) Where the issuer is a holding/subsidiary company, there shall be full disclosure in the prospectus about the transactions, including its nature and amount, between it and its subsidiary/holding company or associate companies, including transactions which have taken place within the last five years of the issuance of the prospectus or the date of incorporation of the issuer company, whichever is earlier, clearly indicating whether the issuer company is a debtor or a creditor.
- (17) Where the issuer is a banking company, insurance company, non-banking financial institution, a declaration by the board of directors shall be included in the prospectus stating that all requirements as specified in the Insurance Act, 1938 (Act No. IV of 1938), e`vSK †Kv`úvbx AvBb, 1991 (1991 mvtj i 14 bs AvBb),

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- (18) A special report from the auditors regarding any allotment of shares to the directors and subscribers to the Memorandum of Association and Articles of Association for any consideration otherwise than for cash.
- (19) Any material information, which is likely to have an impact on the offering or change the terms and conditions under which the offer has been made to the public.

**(8) Directors and Officers:**

The prospectus shall contain the following information in respect of its directors and officers, namely:-

- (a) Name, age, qualification, experience and position of each of the directors of the company and any person nominated to be a director, showing the period for which the nomination has been made and the name of the organization which has nominated him.
- (b) In the case of a director, the date on which he first became a director and the date on which his current term of office shall expire.
- (c) If any director is also a director of another company or owner or partner of any other concern, the names of such organizations.
- (d) Any family relationship among directors and top five officers.
- (e) Short bio-data of each director.

- (f) Neither the company nor any of its directors or shareholders who hold 5% or more shares in the paid-up capital of the issuer is loan defaulter in terms of the CIB Report of the Bangladesh Bank:

Provided that, in case of repeat offering, rule 4 (h) shall be applicable.

- (g) Name with position, educational qualification, date of joining in the company, last five years experience of the Chief Executive Officer, Chief Financial Officer, Company Secretary, Advisers, Consultants, Additional and Deputy Managing Directors and All Departmental Heads.

**(9) Involvement of Directors and Officers in Certain Legal Proceedings:**

The following events shall be described in the prospectus, if they have occurred during the last ten years, namely; -

- (a) Any bankruptcy petition filed by or against any company of which any officer or director of the issuer company filing the prospectus was a director, officer or partner at the time of the bankruptcy.
- (b) Any conviction of director, officer in a criminal proceeding or any criminal proceeding pending against him.
- (c) Any order, judgment or decree of any court of competent jurisdiction against any director, officer permanently or temporarily enjoining, barring, suspending or otherwise limiting the involvement of any director or officer in any type of business, securities or banking activities.

- (d) Any order of the Securities and Exchange Commission, or other regulatory authority or foreign financial regulatory authority, suspending or otherwise limiting the involvement of any director or officer director in any type of business, securities or banking activities.

**(10) Certain Relationships and Related Transactions:**

The prospectus shall contain a description of any transaction during the last two years, or any proposed transactions, between the issuer and any of the following persons, giving the name of the persons involved in the transaction, their relationship with the issuer, the nature of their interest in the transaction and the amount of such interest, namely; -

- (a) Any director or executive officer of the issuer.
- (b) Any director or officer.
- (c) Any person owning 5% or more of the outstanding shares of the issuer.
- (d) Any member of the immediate family (including spouse, parents, brothers, sisters, children, and in-laws) of any of the above persons.
- (e) Any transaction or arrangement entered into by the issuer or its subsidiary for a person who is currently a director or in any way connected with a director of either the issuer company or any of its subsidiaries/holding company or associate concerns, or who was a director or connected in any way with a director at any time during the last three years prior to the issuance of the prospectus.
- (f) Any loans either taken or given from or to any director or any person connected with the director, clearly specifying details of such loan in the prospectus, and if any loan has been taken from

any such person who did not have any stake in the issuer, its holding company or its associate concerns prior to such loan, rate of interest applicable, date of loan taken, date of maturity of loan.

- (g) Any director holding any position, apart from being a director in the issuer company, in any company, society, trust, organization, or proprietorship or partnership firm.
- (h) All interests and facilities enjoyed by a director, whether pecuniary or non-pecuniary.

**(11) Executive Compensation:**

- (a) The total amount of remuneration paid to the top five salaried officers of the issuer in the last accounting year and the name and designation of each such officer.
- (b) Aggregate amount of remuneration paid to all directors and officers as a group during the last accounting year.
- (c) The amount of remuneration paid to any director who was not an officer during the last accounting year.
- (d) Any contract with any director or officer providing for the payment of future compensation.
- (e) If the issuer intends to substantially increase the remuneration paid to its directors and officers in the current year, appropriate information regarding thereto.

**(12) Options granted to Directors, Officers and Employees:**

- (a) The following information shall be given in the prospectus in respect of any option

held by each director, the salaried officers, and all other officers as a group, namely; -

- (i) The date on which the option was granted.
  - (ii) The exercise price of the option.
  - (iii) The number of shares or stock covered by the option.
  - (iv) The market price of the shares or stock on the date the option was granted.
  - (v) The expiration date of the option.
- (b) If such options are held by any person other than the directors, and the officers of the issuer company, the following information shall be given in the prospectus, namely:-
- (i) The total number of shares or stock covered by all such outstanding options.
  - (ii) The range of exercise prices.
  - (iii) The range of expiration dates.

**(13) Transaction with the Directors and Subscribers to the Memorandum:**

- (a) The names of the directors and subscribers to the memorandum, the nature and amount of anything of value received by the issuer during the last five years or to be received by each of the above persons, directly or indirectly, from the issuer and the nature and amount of any assets, services or other consideration received or to be received by the issuer shall be stated in the prospectus.

- (b) If any assets were acquired or are to be acquired from the aforesaid persons, the amount paid for such assets and the method used to determine the price shall be mentioned in the prospectus, and if the assets were acquired by the said persons within two years prior to their transfer to the issuer, the cost thereof paid to the subscribers to the memorandum shall also have to be shown therein.

**(14) Tangible assets per share:**

The prospectus shall show the net tangible asset backing per unit of the securities being offered at the date of the latest statement of financial position contained or referred to in the prospectus.

**(15) Ownership of the Company's Securities:**

- (a) The prospectus shall disclose, in tabular form, the name and address of any person who owns, beneficially or of record, 5% or more of the securities of the issuer, indicating the amount of securities owned, whether they are owned beneficially or of record, and the percentage of the securities represented by such ownership.
- (b) There shall also be a table in the prospectus showing the number of shares of the issuer's securities owned by each director, each of the top ten salaried officers, and all other officers as a group, indicating the percentage of outstanding shares represented by the shares owned.

<sup>1</sup>[(16) **Determination of Offering Price: (1)Under fixed price method**

- (a) If ordinary shares are being offered, the factors to be considered in determining the offering price shall be set forth in the prospectus.
- (b) If the issue price of the ordinary share is higher than the par value thereof, justification of the premium should be stated with reference to-
  - (i) net asset value per share at historical or current costs;
  - (ii) earning-based-value per share calculated on the basis of weighted average of net profit after tax for immediately preceding five years or such shorter period during which the issuer was in commercial operation;
  - (iii) projected earnings per share for the next three accounting year as per the issuers own assessment duly certified by the auditor of the issuer;
  - (iv) average market price per share of similar stock for the last one year immediately prior to the offer for common stocks or if issuance is the repeat public offering, market price per share of common stock of the issuer for the aforesaid period; and

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<sup>1</sup> Substituted vide Notification No. SEC/CMRRCD/2008-186/Admin/03-29 dated 11<sup>th</sup> March 2009, which have been published in the Official Gazette on March 19, 2009.

- (v) all other factors with justification which have been taken into account by the issuer for fixing the premium:

Provided that premium on public offering shall not exceed the amount of premium charged on shares issued (excluding the bonus shares) within immediately preceding one year.

**(2) Under Book Building Method**

Notwithstanding anything contained otherwise in these Rules, the following shall be applicable to an issuer which opts for pricing its security under book-building method, namely:-

**Prerequisites of an issuer for becoming eligible for book-building method.-**

An issuer may determine issue price of its security being offered following book-building method (i.e. price discovery process) subject to compliance with the following, namely:-

- (a) The issuer-
  - (i) must have at least Tk. 30 crore net-worth;
  - (ii) shall offer at least 10% shares of paid up capital (including intended offer) or Tk. 30 crore at face value, whichever is higher;
  - (iii) shall be in commercial operation for at least immediate last three years;
  - (iv) shall have profit in two years out of the immediate last three completed financial year;
- (v) shall have no accumulated loss at the time of application;

- (vi) shall be regular in holding annual general meeting;
- (vii) shall audit at least its latest financial statements by a firm of chartered accountants from the panel of auditors of the Commission;
- (viii) shall appoint separate person as issue manager and registrar to the issue for managing the offer; and
- (ix) shall comply with all requirements of these Rules in preparing prospectus.

(b) The Commission, if it deems appropriate for the interest of investor or development of capital market, may exempt or relax any of the above prerequisites.

**(3) Price discovery for determining indicative price.-**

The price discovery process for determining indicative price of security will involve the following institutional investors registered with or approved by the Commission in this regard:-

- (a) Merchant bankers excepting the issue manager concerned to the proposed issue;
- (b) Foreign institutional investors registered with or approved by the Commission;
- (c) Recognized pension funds and provident funds;
- (d) Bank and non-bank financial institutions under regulatory control of Bangladesh Bank;

- (e) Insurance companies regulated under Insurance Act, 1938 (Act No. IV of 1938);
- (f) Institutional venture capital and institutional investors registered with or approved by the Commission;
- (g) Stock Dealer registered with the Commission; and
- (h) Any other artificial juridical person permitted by the Commission for this purpose.

**(4) Procedures to be followed for determining price under book-building method:-**

- (a) Issuer shall invite for indicative price offer from the eligible institutional investors through proper disclosure, presentation, document, seminar, road show, etc.;
- (b) Issuer in association with issue manager and eligible institutional investors shall quote an indicative price in the prospectus and submit the same to the Commission with copy to the stock exchanges;
- (c) Such indicative price range shall be determined as per price indications obtained from at least five eligible institutional investors covering at least three different categories of such investors;
- (d) Rationale for the indicative price must be included in the prospectus i.e. the issuer is required to disclose in detail about the qualitative and quantitative factors justifying the indicative price;
- (e) The indicative price shall be the basis for formal price building with an upward and downward band

of 20% (twenty percent) of indicative price within which eligible institutional investors shall bid for the allocated amount of security;

- (f) Eligible institutional investors bidding shall commence after getting consent from the Commission for this purpose;
- (g) If institutional quota is not cleared at 20% (twenty percent) below indicative price, the issue will be considered cancelled unless the floor price is further lowered within the face value of security:

Provided that, the issuer's chance to lower the price shall not be more than once;

- (h) Prospectus will have to be posted on the Websites of the Commission, stock exchanges, issue manager and issuer at least two weeks prior to the start of the bidding to facilitate investors to know about the company and all aspect of offering;
- (i) No institutional investor shall be allowed to quote for more than 10% (ten percent) of the total security offered for sale, subject to maximum of 5 (five) bids;
- (j) Institutional bidding period will be 3 to 5 (three to five) working days which may be changed with the approval of the Commission;
- (k) The bidding will be handled through a uniform and integrated automated system of the stock exchanges, or any other organization as decided by the Commission, especially developed for book building method;

- (l) The volume and value of bid at different prices will be displayed on the monitor of the said system without identifying the bidder;
- (m) The institutional bidders will be allotted security on pro-rata basis at the weighted average price of the bids that would clear the total number of securities being issued to them;
- (n) Institutional bidders shall deposit their bid with 20% (twenty percent) of the amount of bid in advance to the designated bank account and the rest amount to settle the dues against security to be issued to them shall be deposited within 5 (five) working days prior to the date of opening subscription for general investors;
- (o) In case of failure to deposit remaining amount that is required to be paid by institutional bidders for full settlement of the security to be issued in their favor, 50% (fifty percent) of bid money deposited by them shall be forfeited by the Commission. The securities earmarked for the bidder who defaulted in making payment shall be added to the general investor quota.
- (p) General investors, which include mutual funds and NRBs, shall buy at the cut-off price;
- (q) There shall be a time gap of 25 (twenty five) working days or as may be determined by the Commission between closure of bidding by eligible institutional investors and subscription opening for general investors;
- (r) Subscription for general investors shall remain open for the period as specified by the Commission;

- (s) General investors shall place their application through banker to the issue; and
- (t) All application money shall be kept in a separate escrow account opened with a designated bank with prior intimation to the Commission. Issuer will not be allowed to utilize such money until all the process of issue is completed and Commission's consent to this effect is obtained.

**(5) Distribution mechanism for issuance of security.-**

The distribution of security to be issued under book-building method will be made in accordance with the following ratio:-

Size of Total Issue	Eligible Institutional Investors' Quota	General Investors' Quota		
		Mutual Fund Portion	NRB portion	Public Portion
Tk. 30 to Tk. 50 Crore	20%	10%	10%	60% or balance amount
Over Tk. 50 Crore to Tk. 100 Crore	30%	10%	10%	50% or balance amount
Over Tk. 100 Crore to Tk. 500 Crore	40%	10%	10%	40% or balance amount
Over Tk. 500 Crore	50%	10%	10%	30% or balance amount

**(6) Lock-in.**

There shall be lock-in of 15 (fifteen) trading days from the first trading day on the security issued to the eligible institutional investors.

**(7) Fee of issue manager and registrar to the issue.**

Fee of issue manager and registrar to the issue could be on negotiated basis but not exceeding 5% (five percent) in total of the issue size.].

**(17) Market for the Securities Being Offered:**

The issuer shall apply to all the stock exchanges in Bangladesh within seven working days from the date of consent accorded by the Commission to issue prospectus.

**(18) Description of Securities Outstanding or Being Offered:**

The prospectus shall:-

- describe any dividend, voting and preemption rights of any common stock outstanding or being offered;
- describe the dividend, voting, conversion and liquidation rights, as well as redemption or sinking fund provisions, of any preferred stock outstanding or being offered;
- if there are any limitations on the payment of dividends to common or preferred stockholders because of provisions in debt instruments or otherwise, explain such limitations; and
- describe any other material rights of the common or preferred stockholders.

**(19) Debt Securities:**

The prospectus shall:-



- (a) describe the terms and conditions of any debt securities that the issuer company may have issued or is planning to issue within six months, including their date of redemption, whether or not such debt securities are convertible to equity, rate of interest payable and any other rights the holders of such securities may have;
- (b) describe the principal amount outstanding or to be outstanding, the maturity date, the interest rate, the conversion or redemption features and the sinking fund requirements of all debt securities outstanding and being offered;
- (c) describe all other material provisions giving or limiting the rights of holders of each class of outstanding debt or debt being offered, for example subordination provisions, limitations on the declaration of dividends, restrictions on the issuance of additional debt or maintenance of asset ratios; and
- (d) give the name of the trustee(s) designated by the indenture for each class of outstanding debt or for debt being offered and describe the circumstances under which the trustee must act on behalf of the debt holders.

**<sup>1</sup>[19A. Commission decision shall be final on certain matter.-Notwithstanding anything contained in**

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<sup>1</sup> Inserted vide Notification No. SEC/CMRRCD/2008-186/Admin/03-29 dated 11<sup>th</sup> March 2009, which have been published in the Official Gazette on March 19, 2009.

these Rules, in the event of any confusion or difference of opinion on any matter whatsoever, the decision of the Commission shall be final and binding on all concerned].

**(20) Financial Statement Requirements:**

The prospectus shall include-

- (a) the financial statements prepared and audited in adherence to the provisions of the Securities and Exchange Rules, 1987;
- (b) information as is required under section 186 of the Companies Act, 1994 relating to holding company;
- (c) selected ratios on liquidity, profitability and solvency of the issuer as specified in **Annexure B; and**
- (d) the issuer shall include comparative income statements and balance sheet and aforementioned ratios for immediate preceding five accounting years of the issuer in the prospectus. If the company has been in existence for less than five years, the above mentioned inclusion and submission will have to be made for the period of existence of the company.

**9. Lock in Provision.-**All issued shares of the issuer at the time of according consent to public offering shall be subject to a lock- in period of three years from the date of issuance of prospectus or commercial operation, whichever comes later:

Provided that the persons, other than directors and those who hold 5% or more, who have subscribed to the shares

of the company within immediately preceding two years of according consent, shall be subject to a lock-in period of one year from the date of issuance of prospectus or commercial operation, whichever comes later.

**10. Refund of subscription money.**-In the case of non-allotment of securities, refund of subscription money of applicants resident in Bangladesh shall be made by account payee cheque/warrant payable to applicant. For this purpose the number of the bank account along-with name of bank and branch shall be indicated in the securities application form.

**11. Subscription by and refund to non-resident Bangladeshi (NRB).** – (1) A non-resident Bangladeshi shall apply either directly by enclosing a foreign demand draft drawn on a bank payable at Dhaka, or through a nominee by paying out of foreign currency deposit account maintained in Bangladesh or in Taka, supported by foreign currency encashment certificate issued by the concerned bank, for the value of securities applied for through crossed bank cheque marking “Account Payee only”.

(2) The value of securities applied for by such person may be paid in Taka or US Dollar or UK Pound Sterling or Euro at the rate of exchange mentioned in the securities application form.

(3) Refund against over subscription shall be made in the currency in which the value of securities was paid for by the applicant through Account Payee bank cheque payable at Dhaka with bank account number, Bank’s name and Branch as indicated in the securities application form.

**12. Availability of Securities.**-(1) 10% of total public offering shall be reserved for non-resident Bangladeshi (NRB) and 10% for mutual funds and collective investment schemes registered with the Commission, and the remaining 80% shall be open for subscription by the general public.

(2) All securities as stated in sub-rule (1) shall be offered for subscription and subsequent allotment by the issuer, subject to any restriction which may be imposed, from time to time, by the Securities and Exchange Commission.

(3) In case of over-subscription under any of the categories mentioned in sub-rule (1), the issue manager shall conduct an open lottery of all the applications received under each category separately in accordance with the letter of consent issued by the Securities and Exchange Commission.

(4) In case of under-subscription under any of the 10% categories mentioned in sub-rule (1), the unsubscribed portion shall be added to the general public category and, if after such addition, there is over subscription in the general public category, the issuer and the issue manager shall jointly conduct an open lottery of all the applicants added together.

(5) In case of under-subscription of the public offering, the unsubscribed portion of securities shall be taken up by the underwriter(s).

(6) The lottery as stated in sub-rule (3) and (4) shall be conducted in presence of representatives from the issuer, the stock exchanges, and the applicants, if there be any.

**13. Issue manager.**- The issuer shall appoint issue manager(s) registered by the Securities and Exchange

Commission for the purpose of making the public offering.

- 14. Underwriter.-** (1) The issuer making public offering shall appoint underwriter(s), having certificate of registration from the Securities and Exchange Commission or allowed by the Commission to carry out underwriting on a firm commitment basis.
- (2) The issuer, in the event of under subscription, shall send notice to the underwriter(s) within ten days of closure of subscription calling upon them to subscribe the securities and pay for them in cash in full within fifteen days of the date of said notice and the said amount shall be credited into securities subscription account within the said period.
- (3) The underwriting agreement shall contain a condition to the effect as mentioned in sub-rule (2).
- (4) The issuer shall, within seven days of the expiry of the period mentioned in sub rule (2), send to the Securities and Exchange Commission proof of subscription and deposit of the money by the underwriter.
- 15. Debenture trustee. –** (1) The public company issuing debenture shall appoint a debenture trustee to protect the interests of debenture holders.
- (2) The debenture trustee shall be a bank, a financial institution, an insurance company, or any other entity registered by the Commission to act as trustee.
- 16. Fees for public offering and listing of security with the recognised stock exchanges.-** (1) The following fees shall be applicable for payment by the issuer company:-

- (i) Issue management fee: maximum 1% on the public offering amount or Tk. 20 lac whichever is lower.
- (ii) Underwriting fee shall be calculated on 50% of initial public offer amount, and the said amount shall not exceed 1% on the amount underwritten.
- (iii) Bankers to the issue fee: maximum 0.1% on the amount collected against public offering applications.
- (iv) Fees to be paid to the each stock exchange:
  - (a) Listing fee for ordinary shares:
    - i. Up to Taka 10 crore of paid-up capital @ 0.25%.
    - ii. Above Taka 10 crore of paid-up capital @ 0.15%.
  - (b) Listing fee for preferred shares and fixed income securities:
    - i. Up to Taka 10 crore of size of the issue @ 0.25%.
    - ii. Above Taka 10 crore of size of the issue @ 0.15%.

However, the total listing fee shall be minimum of Taka 10,000 (ten thousand) and maximum of Taka 20 lac for each of the categories mentioned under sub-rule (1)(iv).

- (v) Fees to SEC:
  - (a) The issuer company shall pay Taka 10,000 (non-refundable) as application fee along with the application for consent of the Commission to issue or offer of securities, by way of a pay order or demand draft issued in favour

- of the “Securities and Exchange Commission”; and
- (b) Upon according of consent by the Commission to issue prospectus, the issuer company shall pay consent fee @ 0.15%, by way of a pay order or demand draft issued in favour of the “Securities and Exchange Commission”, on the amount of public offering.

- (2) No seal commission shall be paid to any persons including the members of the stock exchanges.

**17. Approval, rejection and review.** – (1) On receipt of an application for consent or recognition, as the case may be, to the issue or offer of securities from an issuer, the Securities and Exchange Commission shall review the said application to ascertain whether it is complete.

- (2) In case the said application is incomplete, the Commission shall inform the issuer in writing of the incompleteness within twenty eight days of receipt of the said application.
- (3) If the issuer fails to remove the incompleteness within thirty days of communication thereof, it shall have to file a fresh application.
- (4) The Commission shall issue letter of consent, subject to such conditions as it may deem fit to specify, within sixty days of receipt of a complete application, if such application is acceptable to the Commission.
- (5) If the application is not acceptable to the Commission, it shall issue a rejection order, stating the reasons for such rejection, within sixty days of receipt of the complete application.

- (6) The issuer, whose application has been rejected by the Commission, may apply for review to the Commission within ninety days from the date of such rejection, and the decision of the Commission thereon shall be final.

**18. Exhibits.**– The following documents shall also be filed by the issuer as exhibits to the application for consent to an issue of capital through public offering, namely:-

- (1) Memorandum and Articles of Association- certified by the Registrar of Joint Stock Companies and Firms (RJSC) and attested by the Managing Director/Chief Executive Officer.
- (2) Certificate of Incorporation and Certificate of Commencement of Business – certified by the Registrar of Joint Stock Companies and Firms and attested by the Managing Director/ Chief Executive Officer.
- (3) Extract from the Minutes of Meeting of the Board of Directors for raising paid up capital – photocopy attested by the Managing Director/ CEO.
- (4) Consent of the Directors to serve, in original, signed by all directors.
- (5) Land Title Deed with current rent receipts - photocopy attested by the Managing Director/ Chief Executive Officer.
- (6) If plant & machinery is reconditioned or second-hand – a certificate from SGS or Lloyds agency on its economic life and price competitiveness duly certified by the Chamber of Commerce of the exporting country or the country of origin – all in original.

- (7) Loan agreements, if any – photocopy attested by the Managing Director/ Chief Executive Officer.
- (8) Banker's letter confirming opening of separate bank account for public issue purposes - photocopy attested by the Managing Director/ Chief Executive Officer.
- (9) Due Diligence Certificate (using format included in **Annexure C**) from the Manager to the Issue in original.
- (10) Due Diligence Certificate (using format included in **Annexure D**) from Underwriter in original.
- (11) Due Diligence Certificate from Debenture Trustee, in original, as prescribed by the Commission.
- (12) Agreement with (a) Investment Adviser, (b) Issue Manager, (c) Underwriter(s) and (d) Debenture Trustee- photocopies attested by the Managing Director/ Chief Executive Officer..
- (13) Letter of the Bankers' to the issue accepting their appointment as such – photocopy attested by the Managing Director/CEO.
- (14) Joint venture agreement if any attested by the Managing Director/ Chief Executive Officer.
- (15) Tax Holiday Approval Letter from NBR – attested by the Managing Director/ Chief Executive Officer.
- (16) Copy of return of allotment and particulars of directors certified by the Registrar of Joint Companies and Firms and attested by the Managing Director/ Chief Executive Officer.
- (17) Banker's certificate/bank statement showing deposit of an amount equivalent to the paid up

capital/ auditor's certificate in that regard attested by the Managing Director/ Chief Executive Officer.

- (18) Undertakings of the issuer company and its directors for obtaining CIB Report from Bangladesh Bank – attested by the Managing Director/ Chief Executive Officer.
- (19) Copies of valid license from the regulatory authority, where applicable – attested by the Managing Director/ Chief Executive Officer.
- (20) Deed of Trust (in case of debt securities) attested by the Managing Director/ Chief Executive Officer.
- (21) Credit rating report, if applicable – attested by the Managing Director/ Chief Executive Officer.

**19. Contravention.**— If any issuer or its representative violates any of the provisions of these Rules or furnishes false, incorrect, misleading information or suppresses any information, the Securities and Exchange Commission may take appropriate action under the Securities and Exchange Ordinance, 1969.

**20. Repeal and Savings.**— (1) The Public Issue Rules, 1998 is hereby repealed.

- (2) Notwithstanding the repeal of the said Public Issue Rules, 1998, any consent given, document or agreement made, fee received or paid, resolution passed, direction given, proceeding taken, instrument executed or issued or things done under or in pursuance of the said Rules shall, if in force before the commencement of these Rules, continue to be in force and shall have effect as if made, directed, passed, given, taken, executed, issued or done under or in pursuance of these Rules.

**Annexure- A**

**Declaration about the Responsibility of the Directors,  
including the CEO of the Issuer Company in respect of  
the Prospectus**

[see rule 3 (1)]

This prospectus has been prepared, seen and approved by us, and we, individually and collectively, accept full responsibility for the authenticity and accuracy of the statements made, information given in the prospectus, documents, financial statements, exhibits, annexes, papers submitted to the Commission in support thereof, and confirm, after making all reasonable inquiries that all conditions concerning this public issue and prospectus have been met and that there are no other information or documents the omission of which make any information or statements therein misleading for which the Commission may take any civil, criminal or administrative action against any or all of us as it may deem fit.

We also confirm that full and fair disclosure has been made in this prospectus to enable the investors to make a well informed decision for investment.

**Signature**

**[Full Name]**

**Designation**

**Annexure -B**

**Ratios Pertinent to the Prospectus**

[see rule 8B(20)(c)]

**I. Liquidity Ratios:**

- (i) Current Ratio
- (ii) Quick Ratio
- (iii) Times Interest Earned Ratio
- (iv) Debt to Equity Ratio

**II. Operating Ratios:**

- (v) Accounts Receivable Turnover Ratio
- (vi) Inventory Turnover Ratio
- (vii) Asset Turnover Ratio

**III. Profitability Ratios:**

- (viii) Gross Margin Ratio
- (ix) Operating Income Ratio
- (x) Net Income Ratio
- (xi) Return on Assets Ratio
- (xii) Return on Equity Ratio;
- (xiii) Earnings- Per- Share Ratio (EPS)

**Annexure-C**

**Due Diligence Certificate of Manager to the Issue**

[see rule 18 (9)]

To -

**Sub: Public offer of ..... Ordinary Shares/Preferred  
Shares/ Fixed Income Securities of Tk. ....  
each of ..... (Name of the Issuer Company)**

**Dear Sir,**

We, the under-noted Manager to the Issue to the above-mentioned forthcoming issue, state as follows:

1. We, while finalizing the draft prospectus pertaining to the said issue, have examined various documents and other materials as relevant for adequate disclosures to the investors; and
2. On the basis of such examination and the discussions with the issuer company, its directors and officers, and other agencies, independent verification of the statements concerning objects of the issue and the contents of the documents and other materials furnished by the issuer company.

**WE CONFIRM THAT:**

- a) the draft prospectus forwarded to the Commission is in conformity with the documents, materials and papers relevant to the issue;
- b) all the legal requirements connected with the said issue have been duly complied with; and
- c) the disclosures made in the draft prospectus are true, fair and adequate to enable the investors to make a well informed decision for investment in the proposed issue.

**For Manager to the Issue**

Sd/  
Managing Director  
(Name of the Merchant Banker)

**Annexure - D**

***DUE DILIGENCE CERTIFICATE OF THE  
UNDERWRITER(S)***

[see rule 18(10) ]

To –

**Sub: Public offer of ..... Ordinary Shares/Preferred  
Shares/ Fixed Income Securities of Tk. ....  
each of .....(Name of the Issuer Company)**

Dear Sir,

We, the under-noted Underwriter(s) to the above-mentioned forthcoming issue, state individually and collectively as follows:

1. We, while underwriting the above mentioned issue on a firm commitment basis, have examined the draft prospectus, other documents and materials as relevant to our underwriting decision; and
2. On the basis of such examination and the discussions with the issuer company, it's directors and officers, and other agencies, independent verification of the statements concerning objects of the issue and the contents of the documents and other materials furnished by the issuer company.

**WE CONFIRM THAT:**

- (a) all information as are relevant to our underwriting decision have been received by us and the draft prospectus forwarded to the Commission has been approved by us;
- (b) we shall subscribe and take up the un-subscribed securities against the above-mentioned public issue within 15 (fifteen) days of calling up thereof by the issuer; and
- (c) this underwriting commitment is unequivocal and irrevocable.

**For Underwriters**

Sd/  
Managing Director  
(Name of the Merchant Banker/Underwriter)

By Order of the Securities and Exchange Commission

**Dr. Mirza Azizul Islam**  
Chairman.