



# BANGLADESH SECURITIES AND EXCHANGE COMMISSION

JIBON BIMA TOWER (14, 15, 16 & 20 FLOOR), 10 DILKUSHA C/A, DHAKA-1000, BANGLADESH

## NOTICE

The Bangladesh Securities and Exchange Commission (BSEC) hereby publishes the following draft of the Bangladesh Securities and Exchange Commission (Alternative Investment) Rules, 2015 in the newspaper as per requirement of Section 24(1) of the বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন আইন, ১৯৯৩ (১৯৯৩ সনের ১৫ নং আইন) for eliciting public opinion, etc.

Opinion, advice or objection, if any thereon will have to be sent to the following address within two weeks (i.e. 21 June 2015) from the date of publication of the draft.

Chairman  
Bangladesh Securities and Exchange Commission  
Jiban Bima Tower (14, 15, 16 and 20<sup>th</sup> Floor)  
10 Dilkusha C/A  
Dhaka-1000

### Draft Rules

## BANGLADESH SECURITIES AND EXCHANGE COMMISSION

### ALTERNATIVE INVESTMENT RULES, 2015

In exercise of the power conferred by Section 24(1) of the বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন আইন, ১৯৯৩ (১৯৯৩ সনের ১৫ নং আইন) read with Section 33 of the Securities and Exchange Ordinance, 1969 (Ordinance No. XVII of 1969) and in pursuance of Section 32 of the said Ordinance, the Bangladesh Securities and Exchange Commission hereby makes, after prior publication, the following Rules, namely: -

### CHAPTER I PRELIMINARY

#### 1. Short title and commencement. –

- (1) These Rules may be called the “Bangladesh Securities and Exchange Commission (Alternative Investment) Rules, 2015”.
- (2) These Rules shall be applicable for the registration and regulation of alternative investment funds, fund managers and Trustees of such funds and for matters connected therewith and incidental thereto.
- (3) These Rules shall come into force on the date of publication in the Official Gazette.



# BANGLADESH SECURITIES AND EXCHANGE COMMISSION

JIBON BIMA TOWER (14, 15, 16 & 20 FLOOR), 10 DILKUSHA C/A, DHAKA-1000, BANGLADESH

## 2. Definitions. -

(1) In these Rules, unless there is anything repugnant in the context or subject-

- (1) "Act" means the বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন আইন, ১৯৯৩ (১৯৯৩ সনের ১৫ নং আইন);
- (2) "alternative investment fund" or "fund" means any fund established or incorporated in Bangladesh in the form of a trust which,
  - i. is a "private equity fund" or a "venture capital fund" or an "impact fund" or any other type of fund as declared by the Commission as alternative investment fund from time to time;
  - ii. is a privately pooled investment vehicle which collects funds from eligible investors for investing in accordance with a defined investment policy for the benefit of its investors;
  - iii. collect subscription by way of private placement only and does not offer its units for public subscription; and
  - iv. is not covered under the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১, or any other Rules of the Commission to regulate fund formation and management activities;
- (3) "asset manager" means a 'সম্পদ ব্যবস্থাপক' as defined in the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১;
- (4) "buyout" means such investment by an alternative investment fund by which the ownership equity of a company, or majority of outstanding equity shares of the company is acquired by the fund;
- (5) "capital call" means the demand made by a fund manager for all or part of the remaining amount of the subscription committed by the investors of a fund;
- (6) "Commission" means the Bangladesh Securities and Exchange Commission established under section 3 of the বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন আইন, ১৯৯৩ (১৯৯৩ সনের ১৫ নং আইন);
- (7) "committed fund" means the total amount of commitments received from the investors to invest in the fund when being called-up;
- (8) "connected person" means in relation to a natural person, spouse or any person dependant on such person, a partner of an undertaking of which such person is also a partner, company or body corporate in which such person is a-substantial shareholder or director; and in relation to a legal person, an undertaking, company or body corporate which is a holding, subsidiary or associated company of such legal person;
- (9) "constitutive documents" means the principal documents and agreements governing the formation of a fund including the trust deed, placement memorandum, subscription agreement, investment management agreement and all other related material documents;



# BANGLADESH SECURITIES AND EXCHANGE COMMISSION

JIBON BIMA TOWER (14, 15, 16 & 20 FLOOR), 10 DILKUSHA C/A, DHAKA-1000, BANGLADESH

- (10) “corpus” or “fund corpus” means the total amount realized from and committed by the investors to an alternative investment fund as on a particular date;
- (11) “depository” means any depository established under the Depository Act, 1999 (Act VI of 1999);
- (12) “eligible investors” or “investors” means participants eligible and competent to understand the risk & return potentials to invest and commit capital to any alternative investment fund and be either a registered local or foreign fund manager or a company incorporated in Bangladesh or abroad or a statutory body or a local government authority or a bank or a financial institution or an insurance company or a merchant bank or a stock dealer or an asset manager or an alternative investment fund managed by other fund manager or a registered pension fund or a registered provident fund or a registered trust fund or a registered super annuation fund or a foreign fund or a foreign individual or a high net worth resident or non-resident Bangladeshi individual;
- (13) “equity linked instruments” means quasi-equities like fully or partly convertible or redeemable preference shares and debt securities convertible to equities;
- (14) “foreign fund” means a fund established and registered outside Bangladesh and engaged in the business of an alternative investment fund;
- (15) “fund manager” or “fund management company” means any person who is entrusted to operate, manage and advice any alternative investment fund by whatever name called;
- (16) “high net worth individual” means a natural person having minimum net worth of taka 50 (fifty) million certified by the concerned tax authority;
- (17) “hurdle rate” means a reference annual rate of return on investment of a fund as disclosed in the constitutive documents;
- (18) “impact fund” means an alternative investment fund which invests in equity or equity linked instruments of companies, organizations, and funds with the intention to generate a measurable, beneficial social or environmental impact in addition to financial returns;
- (19) “investible fund” means realized fund at a given time net of estimated administrative and management expenses for of the fund;
- (20) “investment management agreement” or “IMA” means an agreement between fund manager and Trustee depicting details procedure of management of an alternative investment fund;
- (21) “investment committee” means a committee to approve investments of the fund comprising 03 (three) to 06 (six) members, of which at least 01(one) member shall be from the unit holders of the fund;
- (22) “Islamic fund” means a fund which invests in Shariah compliant securities/companies/instruments, in response to the needs of investors who want to make Shariah compatible investments;



# BANGLADESH SECURITIES AND EXCHANGE COMMISSION

JIBON BIMA TOWER (14, 15, 16 & 20 FLOOR), 10 DILKUSHA C/A, DHAKA-1000, BANGLADESH

- (23) “NAV per unit” means NAV of a fund divided by total number of units outstanding;
- (24) “net asset value” or “NAV” means total assets of a fund excluding total liabilities;
- (25) “Ordinance” means the Securities and Exchange Ordinance, 1969 (Ordinance No. XVII of 1969);
- (26) “person” means any company, partnership business or firm or any club or association of more than one persons whether incorporated or not, as well as a natural person;
- (27) “placement memorandum” means a document, containing information and disclosures specified in **Schedule ‘C’** of these Rules, inviting eligible investors to invest in units of the fund;
- (28) “portfolio company” or “investee” means any company or any other fund in which an alternative investment fund makes an investment;
- (29) “private equity fund” means an alternative investment fund which invests primarily in equity or equity linked instruments of potentially high growth non-listed portfolio companies with minimum 02 (two) years’ operational history or to conduct buyouts of listed companies according to the stated objective of the fund;
- (30) “private placement” means offer of units to the eligible investors in a way other than public offering;
- (31) “realized fund” means the total amount of fund paid-up by the unit holders out of the fund corpus;
- (32) “register” means the register recording the details information of the units and unit holders of the fund;
- (33) “securities” means securities as defined in sub-section (1) of section 2 of the Securities and Exchange Ordinance, 1969 (Ordinance No. XVII of 1969) and units of any alternative investment fund;
- (34) “Schedule” means the Schedule annexed to these Rules;
- (35) “Shariah Council” means a council which certifies the Islamic financial products and companies as being Shariah-compliant. A Shariah council performs the following responsibilities:
  - a) Prepare guidelines and methodologies for selecting/screening of companies/securities/instruments to be acceptable as per Shariah principles;
  - b) Recommend companies/securities/instruments consistent with the guidelines/methodologies for investment;
  - c) Certify/ approve the criteria of identifying prohibited incomes and recommending distribution of those income to any charitable organization;
  - d) Certify at the end of each accounting year that all investments and incomes accounted for are Shariah compliant;



# BANGLADESH SECURITIES AND EXCHANGE COMMISSION

JIBON BIMA TOWER (14, 15, 16 & 20 FLOOR), 10 DILKUSHA C/A, DHAKA-1000, BANGLADESH

- (36) “sponsor” means one or more eligible investors initially subscribing to form a fund, jointly or solely;
- (37) “subscription agreement” means an agreement, between the fund manager and the eligible investors for subscribing to the units;
- (38) “trust” means a trust established under the Trust Act, 1882 (Act No. II of 1882) for the purpose to constitute an alternative investment fund;
- (39) “Trustee” means a Trustee, appointed and registered in respect of any fund established under these Rules;
- (40) “trust deed” means the deed executed between the sponsor(s) and the Trustee in respect to the fund;
- (41) “unit” means beneficial interest of the investors in the alternative investment fund;
- (42) “unit holder” means one or more eligible investors including the sponsors who is the legal owner of one or more units of the fund and whose name appears in the register;
- (43) “venture capital fund” means an alternative investment fund which invests primarily in non-listed equity and equity linked securities of start-ups with less than 02 (two) years’ operational history or green field companies or emerging early-stage undertakings mainly involved in new products, services, technologies or intellectual property rights based activities or new business models.
- (2) Unless otherwise repugnant for any purpose, words and expressions used herein and not defined, but defined in the Trust Act, 1882 (Act No. II of 1882), the Registration Act, 1908 (Act No. XVI of 1908), the Securities and Exchange Ordinance, 1969 (Ordinance No. XVII of 1969), ব্যাংক-কোম্পানী আইন, ১৯৯১ (১৯৯১ সনের ১৪ নং আইন), বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন আইন, ১৯৯৩ (১৯৯৩ সনের ১৫ নং আইন), আর্থিক প্রতিষ্ঠান আইন, ১৯৯৩ (১৯৯৩ সনের ২৭ নং আইন), কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন), ডিপজিটরি আইন, ১৯৯৯ (১৯৯৯ সনের ৬ নং আইন), বীমা আইন, ২০১০ (২০১০ সনের ১৩ নং আইন) and Rules and Regulations made under the above Acts and Ordinances shall have the same meanings respectively assigned to them in the said Acts and Ordinances.

## CHAPTER II FUND MANAGER

### 3. Registration of fund manager.-

- (1) The fund manager of any alternative investment fund shall be registered by the Commission under these Rules and no person shall act as fund manager of any alternative investment fund without such registration:

provided that, an existing fund management company, which is not registered with the Commission, shall submit application for registration under these Rules within 01(one) year from commencement of these Rules fulfilling the requirements, and may continue to operate till the disposal of such application:

