

Bangladesh Securities and Exchange Commission

Securities Commission Bhaban
E-6/C Agargaon
Sher-e-Bangla Nagar Administrative Area
Dhaka-1207, Bangladesh

NOTICE

04 May 2017

Bangladesh Securities and Exchange Commission (BSEC) hereby publishes the draft amendment of the Bangladesh Securities and Exchange Commission (Public Issue) Rules, 2015 in the newspaper as per requirement of section 33(1) of the Securities and Exchange Ordinance, 1969, for eliciting public opinion, etc.

Opinion, advice or objection, if any, thereon will have to be sent to the following address within two weeks from the date of publication of the draft.

Chairman
Bangladesh Securities and Exchange Commission
Securities Commission Bhaban
E-6/C, Agargaon, Sher-e-Bangla Nagar
Dhaka-1207.

Proposed (draft) amendment

Bangladesh Securities and Exchange Commission (Public Issue) Rules, 2015 shall be amended in the following manner, namely:-

1. In rule 2, sub-rule (1), clause (e) shall be replaced by the following new clause (e), namely:

“(e) “eligible investor or EI” means the following institution who has business operation or investment in Bangladesh and registered with the electronic subscription system of the exchanges:-”.

2. In rule 2, sub-rule (1) clause (e), sub-clause (xi) shall be replaced by the following new sub-clause (xi), namely:

“xi Recognized Provident Funds, approved Pension Funds and Gratuity Funds;
and”

3. After clause (g) of sub rule (1) of rule 2, the following new clause (gg) will be added, namely:

“(gg) “Fund” means mutual fund or collective investment scheme or any other funds approved by the Commission under the respective rules”

4. In rule 3, sub-rule (2), clause (a) & (b) shall be repealed.
5. In rule 3, sub-rule (2), clause (d) shall be replaced by the following new clause (d), namely:

“(d) the issue manager or any of its connected persons is in no way connected with the issuer or any of its connected persons nor does hold any securities thereof;
6. In rule 3, sub-rule (2), clause (m) shall be replaced by the following new clause (m), namely:

“(m) The issuer or any of its directors and shareholders holding 10% or more shares are not bank defaulters.”
7. In rule 3, sub-rule (3), clause (a) & (b) shall be replaced by the following new clause (a) & (b), namely:

“(a) if it has been in commercial operation for more than immediate last 3 (three) years, it has positive net profit after tax at least for immediate preceding 2 (two) financial years; if it has been in commercial operation for a period less than 3 (three) years, it has positive net profit after tax at least for the latest financial year; if it has not started its commercial operation or not completed any financial period yet, it has positive projected net profit after tax;

(b) thirty five percent (35%) of the issue has been underwritten on a firm commitment basis by the underwriter(s);”
8. After Clause (b) of sub rule (3) of rule 3, the following new clauses (c) & (d) will be added, namely:

“(c) it offers at least an amount equivalent to 10% (ten percent) of its paid-up capital (including intended offer) or Tk. 30 (thirty) crore at par value, whichever is higher; and

(d) it has minimum existing paid up capital of Tk. 15 (fifteen) crore.”
9. After Clause (f) of sub-rule (4) of rule 3, the following new clauses (g) & (h) will be added, namely:

“(g) it intends to raise at least an amount of Tk. 50 (fifty) crore through the public offer; and

(h) it has minimum existing paid up capital of Tk. 30 (thirty) crore.”
10. In rule 4, sub-rule (1), clause (j) shall be replaced by the following new clause (j), namely:

“(j) the exchange(s) shall submit its final recommendation along with a declaration as prescribed in the listing regulations to the Commission on the issue within seven days, but not later than ninety days from the submission date of first application to the exchange(s), of receiving such additional disclosure, information, documents, certification and clarification;

Provided that all the communications to or from the exchanges shall be intimated to the Commission;”

11. In rule 4, sub-rule (2), clause (c), sub-clause (i), (ii), (iv), (vii) & (x) shall be replaced by the following new sub-clauses (i), (ii), (iv), (vii) & (x), namely::

- (i) Eligible investors shall participate in the electronic subscription system and submit their intended quantity and price:
provided that any connected person on related party of the issuer, issue manager or registrar to the issue shall not be eligible to participate in the bidding process;
- (ii) No eligible investor shall quote for more than 2% (two percent) of the total amount offered against their respective quota;
- (iv) The bidding shall be conducted through an uniform and integrated automated system of the exchanges, especially developed for public issue subscription;
- (vii) The bidders can revise their bids for once, within the bidding period, up to 10% (ten percent) variation of their first bid price;
- (x) The EIs excluding mutual funds shall be allotted securities on pro-rata basis at the cut-off price. Mutual funds shall be allotted the securities reserved for them on pro-rata basis;”

12. After sub rule (2) of rule 4, the following new sub-rule (3) shall be added, namely:

“(3) Application by eligible investors in fixed price method:

- (a) Eligible investors shall submit application through the electronic subscription system of the exchanges and deposit the full amount intended to subscribe by the method as determined by the exchanges;
- (b) No eligible investor shall apply for more than 2% (two percent) of the total amount offered to the eligible investors;

Provided that, the above condition shall not be applicable for the initial public offer (IPO) of any funds;

- (c) All the eligible investors shall be allotted securities reserved for them on pro-rata basis; and
- (d) Refund shall be made within the time as described in the public issue application process by the method as determined by the exchanges.”

13. In rule 6, table shall be replaced by the new following table, namely:

Distribution mechanism of securities:

Issue method	Eligible Investor (EI)		General Public (GP)	
	EI excluding mutual funds	Mutual Funds	GP excluding NRB	NRB
Fixed price	40%	10%	40%	10%
Book Building	50%	10%	30%	10%

14. Rule 10 shall be replaced by the new following rule 10, namely:

“Lock-in: Ordinary shares of the issuer shall be subject to lock-in, from the date of issuance of prospectus or commercial operation, whichever comes later, in the following manner:

- (1) All shares held, at the time of according consent to the public offer, by sponsors, directors and shareholders holding 10% (ten percent) or more shares, other than alternative investment funds, for 03(three) years;
- (2) In case any existing sponsor or director of the issuer transfers any share to any person, other than existing shareholders, all shares held by those transferee shareholders, at the time of according consent to the public offer, for 03(three) years;
- (3) 25% of the shares allotted to eligible investors, for 06 (six) months and other 25% of the shares allotted to them, for 09 (nine) months;
- (4) All shares held by alternative investment funds, at the time of according consent to the public offer, for 01(one) year; and
- (5) All shares held, at the time of according consent to the public offer, by any person other than the persons mentioned in sub-rules (1), (3), (4) and (5) above, for 01(one) year.

Provided that ordinary shares converted from any other type of securities shall also be subject to lock-in as mentioned above.”

15. Rule 14 shall be replaced by the new following rule 14, namely:

Fees for public offer and listing of securities:-

Type of fees	Fixed Price Method	Book Building Method
Issue Management fee	1% on the public offer amount or Tk. 03.00 million whichever is lower.	Two percent (2%) on the public offer amount (including premium) or Tk. 10.00 (ten) million whichever is lower.
Underwriting fee	Maximum 1% on 35% of the public offer amount.	Maximum 1% on 35% of the public offer amount (including premium).
Application fee	Tk. 50,000.00 (non-	Tk. 50,000.00 (non-refundable)

for the Commission	refundable)	
Consent fee for the Commission	0.40% on the public offer amount.	0.40% on the public offer amount (including premium).
Fees for Funds	As per relevant Rules	
Fees for Exchanges	As per the relevant listing Regulations	
Other fees	As per relevant contracts	

16. After sub-rule (7) of rule 15, the following new sub-rule (8) will be added, namely:

“(8) An issuer may submit application, to the Commission along with its board decision, to withdraw the application for public issue at any time before the date of public subscription, mentioning specific reasons thereof. The Commission shall decide upon the method of withdrawal and inform it to the issuer. The issuer shall abide by the decision and disclose it accordingly.”

17. In sub-clause (a) of clause (1) of sub rule (B) of Annexure-E of rule 5 the word “making” shall be replaced by the word, namely: “making”.

18. In sub-clause (p) of sub-clause (ii) of sub-clause (f) of clause (5) of sub rule (B) of Annexure-E of rule 5 the words “Financial Information of Group Companies” shall be replaced by the words, namely: “Financial Information of Group Companies and Companies under common ownership by more than 51%:”

19. After sub-clause (13) of sub-clause (p) of sub-clause (ii) of sub-clause (f) of clause (5) of sub-rule (B) of Annexure-E of rule 5, the sub-clause number 14), 15), 16), 17), q), r), s), t), u), v), w), x), y), z) shall be renamed by the letters q), r), s), t), u), v), w), x), y), z), zi), zii), ziii), ziv).

20. Sub-clause t) of sub-clause (ii) of sub-clause (f) of clause (5) of sub-rule (B) of Annexure-E of rule 5, shall be replaced by new sub-clause t), namely:

“t) Projected financial statements should be required only for companies not started commercial operation yet and authenticated by two directors, Chairman, Managing Director, CFO, and Company Secretary.”

21. At the end of sub-clause w) of sub-clause (ii) of sub-clause (f) of clause (5) of sub-rule (B) of Annexure-E of rule 5, the following words shall be inserted, namely:

“during the history of operation of the company”.

22. Sub-clause (h) of clause (7) of sub-rule (B) of Annexure-E of rule 5, shall be replaced by the new sub-clause (h), namely:
“(h) Loan status of the issuer, its directors and shareholders who hold 10% or more shares in the paid-up capital of the issuer in terms of the CIB Report of Bangladesh Bank;”.
23. In first line of sub-clause (b) of clause (11) of sub-rule (B) of Annexure-E of rule 5, the words “within next two financial years” shall be added after the words ‘If any assets were acquired or to be acquired’
24. In clause (18) of sub-rule (B) of Annexure-E of rule 5, the word “outstanding” shall be deleted.
25. In sub-clause (a) of clause (18) of sub-rule (B) of Annexure-E of rule 5, the words “including outstanding litigations” shall be added after the words ‘litigations’.
26. In sub-clause (b) of clause (18) of sub-rule (B) of Annexure-E of rule 5, the words “including outstanding litigations” shall be added after the words ‘cases’.
27. Sub-clause (b) of clause (21) of sub-rule (B) of Annexure-E of rule 5, shall be replaced by the following new sub-clause (b), namely:
“(b) Utilization of the total amount of paid-up capital and share premium, if any, including the sponsors’ contribution and capital raised of the issuer at the time of submission of prospectus, in details with indication of use of such funds in the financial statements;”.
28. Sub-clause (k) of clause (21) of sub-rule (B) of Annexure-E of rule 5, shall be replaced by the following new sub-clause (k), namely:
“(k) Summary of the project appraisal or feasibility report by the relevant professional people not connected with the issuer, issue manager and registrar to the issue with cost of the project and means of finance, weaknesses and threats, if any, as given in the appraisal or feasibility report.