

Securities and Exchange Commission (Issue of Capital) Rules, 2001



বাংলাদেশ গেজেট
অতিরিক্ত সংখ্যা
কর্তৃপক্ষ কর্তৃক প্রকাশিত

রবিবার, এপ্রিল ২৯, ২০০১

[চম খন্ড-- বেসরকারী ব্যক্তি এবং কর্পোরেশন কর্তৃক অর্থের বিনিময়ে জারীকৃত বিজ্ঞাপন ও নোটিশসমূহ]

Securities and Exchange Commission
Jiban Bima Tower
10, Dilkusha (15th and 16th Floor)
Dhaka-1000

NOTIFICATION
Dated the 28 March, 2001

No. SEC/CFD-71/2001/Admin/07- In exercise of the power conferred by section 33, read with section 20A, of the Securities and Exchange Ordinance, 1969 (XVII of 1969), the Securities and Exchange Commission makes, after prior publication, the following rules, namely:-

1. Short title and application.— ¹[(1) These rules may be called the Securities and Exchange Commission (Issue of Capital) Rules, 2001]

(2) ²[They shall apply for issue of capital by a company, or a proposed company, unless otherwise it is either exempted by the Securities

¹ Amended vide Notification No. SEC/CMRRCD/2003-109/376/Admin-03/12, dated 13 December 2004 published in the official Gazette on 17 January 2005.

² Substituted vide Notification No. SEC/CMRRCD/2003-109/376/Admin-03/12, dated 13 December 2004 published in the official Gazette on 17 January 2005.

and Exchange Commission or governed/regulated by the Commission through any other rules, notification or order issued from time to time];

2. Definitions.-¹[(1) In these rules, unless there is anything repugnant in the subject or context, “company” means a company as defined in the কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন)];

(2) Words and expressions used herein but not defined shall have the same meanings as are respectively assigned to them in the Securities and Exchange Ordinance, 1969 (XVII of 1969), the Securities and Exchange Commission Act, 1993 (XV of 1993) and the Companies Act, 1994 (XVIII of 1994).

3. Application for consent to the issue of capital in Bangladesh.- (1) A²[*] company (hereinafter referred to as the applicant) intending to issue capital in Bangladesh shall make an application to the Securities and Exchange Commission for consent.

(2)The application shall contain the following particulars, namely:-

- (a) name of the company;
- (b) address of the registered office;
- (c) telephone number;
- (d) fax number and e-mail number, if any;
- (e) date of incorporation;
- (f) date of commencement of business;
- (g) authorized capital;
- (h) paid up capital;
- (i) amount of capital to be issued;
- (j) face value of shares; and
- (k) period within which capital to be issued.

(3) The applicant shall furnish the following documents along with the said application, namely:-

¹ Substituted vide Notification No. SEC/CMRRCD/2003-109/376/Admin-03/12, dated 13 December 2004 published in the official Gazette on 17 January 2005.

² The word ‘public limited’ deleted vide Notification No. SEC/CMRRCD/2003-109/376/Admin-03/12, dated 13 December 2004 published in the official Gazette on 17 January 2005.

- ¹[(a) certified copy of memorandum and articles of association, or attested copy of the draft memorandum and articles of association; as the case may be;]
- ⁵[(b) certified copy of certificate of incorporation and certificate of commencement of business, where applicable, or receipt issued against filing for incorporation of a proposed company, as the case may be;]
- (c) list of directors;
- ⁵[(d) audited/provisional financial statements;]
- (e) statement relating to purpose of raising capital;
- ⁵[(f) copy of the resolution of the board of directors deciding to raise capital, attested by the managing director, in case of an existing company;]
- (g) ²[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];
- (h) vendor's agreement in case of raising of capital in kind; and
- (i) short description of the business.

4. Consideration of the application and decision thereon.-

- (1) On receipt of the application under rule 3, the Commission shall examine it, and if it is satisfied that all the requirements of rule 3 are fulfilled, it shall accord consent in writing to the issue of capital in Bangladesh, as prayed for, within sixty days of receipt of the application.

¹ Clause (a), (b), (d) and (f) of sub-rule-3 of rule-3 substituted vide Notification No. SEC/CMRRCD/2003-109 /376/ Admin-03/12, dated 13 December 2004 published in the official Gazette on 17 January 2005.

² Replaced by Notification No. SEC/CMRRCD/2003-109/126//Admim/41 dated March 11, 2012, Published in the Bangladesh Gazette on April 1, 2012.

- (2) If the Commission finds that the application does not fulfill all the requirements of rule 3, it may, within thirty days of receipt of the application, direct the applicant to fulfill the requirements within such time as the Commission may determine, and on fulfillment of such requirements the Commission shall accord the consent as prayed for within thirty days of such fulfillment.
- (3) The Commission may call for further information, in addition to the requirements of rule 3, if it so deems necessary.
- (4) If the Commission finds that the application does not fulfill all the requirements of rule 3, or where a direction to fulfill such requirements has been given under sub-rule (2) and the applicant has failed to fulfill such requirements, it may reject the application, stating the reasons therefor.
5. **Review.-** The applicant whose application has been rejected by the Commission under rule 3(4) may apply to the Commission for review of its decision within thirty days from the date of such rejection, and the decision of the Commission thereon shall be final.
6. **Fee.-** (1) The applicant shall pay an amount of taka five thousand (nonrefundable) as application fee, along with the application, by way of pay order or demand draft issued in favour of the Commission.
- ¹(2) If consent is accorded to the issue of capital by the Commission, the applicant shall pay, within fifteen days of the issuance of the letter of consent, a fee at the following rate on the capital to be issued (debt or equity) through a bank draft or payment order issued in favour of the Securities and Exchange Commission:
- Upto first Tk. 5 crore-@ 0.1%;
For any subsequent amount-@0.02%
- (3) If the applicant fails to pay the fee under sub rule (2) within the specified time, the consent accorded shall stand cancelled.

¹ Replaced vide Notification No. SEC/CMRRCD/2003-109/03/09 dated 4th March 2003, published in the Bangladesh Gazette on May 4, 2003

¹[6A. **Lock in.**- The security (except debt security without conversion feature) including the equity security issued in part or in full against any convertible security by a listed company for which the consent is accorded under these Rules shall be subject to a lock-in of (a) 3 (three) years in case of directors and those who hold 5% (five percent) or more shares, and (b) 1 (one) year in case of others, from the date of issuance of such security, or from the date of issuance of consent, whichever is later:

Provided that the time involved in between the issuance of convertible security and converted equity security shall be counted for the lock-in period:

Provided further that the said lock-in shall also be applicable in case of issuance of equity security against loan or debt security having no predetermined conversion feature if such equity security is not issued at a price equal to last 6 (six) months' weighted average market price at the stock exchange(s)].

7. **Submission of financial statements, etc.**- (1) The company to which consent to the issue of capital is accorded shall complete audit of its financial statements and, hold its annual general meeting within such period as may be specified by the Commission at the time of according the consent.
- (2) The said company shall submit a copy of such audited financial statements and a copy of its annual report and the minutes of its annual general meeting within fourteen days of the completion of the audit or, as the case may be, holding of the annual general meeting.
- (3) The Commission may, on application and on good cause shown, extend the time for auditing the financial statements or

¹ Inserted vide Notification No. SEC/CMRRCD/2003-109/Admin/03-32 dated July 02, 2009

submission of the financial statements to the Commission, as the case may be.

- (4) The said company shall furnish the Commission the following information, along with the supporting documents and evidence, namely:-
- (a) change of registered address;
 - (b) change of directors;
 - (c) appointment of managing director;
 - (d) change of business or opening of new business;
 - (e) any material change that affects the affairs of the company.

By order of the Commission

Manir Uddin Ahmad
Chairman
Securities and Exchange Commission