

GOVERNMENT OF PAKISTAN  
Securities and Exchange Commission of Pakistan

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*Islamabad, the 8<sup>th</sup> October, 2019*

NOTIFICATION

**S.R.O. 1214 (I)/2019.**- The following draft amendments in the Private Funds Regulations, 2015, proposed to be made by the Securities and Exchange Commission of Pakistan, in exercise of the powers conferred by sub-section (2) of section 282B of the Companies Ordinance, 1984 (XLVII of 1984) [Part-VIII A], are hereby published for information of all persons likely to be affected thereby and notice is hereby given that comments, if any, received within fourteen days of the date of this notification will be taken into consideration, namely:-

**DRAFT AMENDMENTS**

In the aforesaid Regulations,-

(1) In regulation (2),-

(a) in sub-regulation (1), after clause (i), following new clauses shall be inserted namely:-

“ia. “Angel fund” means a sub category of Private Equity and Venture Capital fund which raise funds from Angel Investors for investment mainly in unlisted securities of start-ups, emerging or early-stage companies mainly involved in new products, new services, technology or intellectual property right based activities or a new business model;”;

ib. “Angel investor” means an eligible investor who proposes to invest in an angel fund and must be a senior entrepreneur or management professional with at least ten years of experience;” ;

(b) for clause (iii) the following shall be substituted, namely:-

“iii. “Eligible Investor” means a person who has net assets of at least Rs. 15million excluding the value of personal residence and who furnishes a declaration to the Private Fund Management Company that he understands the risks of investment in a Private Fund;” ;

(c) after clause (iv), following new clauses shall be inserted namely:-

“iva. “Hedge Fund” means a sub category of Alternative Fund which invests in securities and/or derivatives and may employ complex portfolio-construction and leveraging; “;

(d) after clause (v), following new clauses shall be inserted namely:-

“va. “Impact Fund” means a Private Equity and Venture Capital fund which make investment with the intention to generate positive, measurable social and environmental impact alongside a financial return.

vb. “Infrastructure fund” means a Private Fund which invests mainly in financial assets of companies engaged in or formed for the purpose of operating, developing or holding infrastructure projects;”;

(e) for clause (xiii) the following shall be substituted, namely:-

“xiii. “Private Equity and Venture Capital Fund” means a Private Fund established in a closed-end structure for investment mainly in securities of an unlisted company or for turning around a listed company or listed and unlisted SME or an unlisted company engaged in business of investing in developing a new product or process or expansion of business:

Provided that a Private Equity and Venture Capital Fund may invest in units of other Private Equity and Venture Capital Fund.” ;

(f) after clause (xviii) , following new clauses shall be inserted namely:-

“xviii.a. “Small and Medium Enterprise Fund” means a Private Equity and Venture Capital Fund which invests mainly in unlisted securities of SMEs or securities of those SMEs which are listed or proposed to be listed.”;

(g) in clause xxii, for the full stop at the end the expression ‘; and’ shall be substituted and thereafter , the following new clause shall be inserted namely:-

“xxiii. “Venture Capital fund” means a sub category of Private Equity and Venture Capital fund which invests mainly in unlisted securities of start-ups, emerging or early-stage or high risk companies.” ;

(2) in regulation (3), for sub-regulations (1) shall be substituted, namely:-

“(1) Prohibition to engage in business of Private Equity and Venture Capital Fund Management Services without registration.- (1) No person shall establish, launch, or raise money in Pakistan for investment in a Private Fund unless the Fund is registered under these Regulations.” ;

(3) In regulation (8),-

(a) after clause (ii) the following new clause shall be inserted namely:-

“iia. before offering a private fund to an eligible investor shall asses or

take into consideration the financial sector experience, risk tolerance and net worth of eligible investor as per Schedule VI:

Provided that net worth of an eligible investor shall be assess through his latest tax return and Wealth Tax Statement.”

(b) in clause (iii), in the beginning the words “prepare and” shall be inserted:-

(c) in clause (xx), the expression “(3)” the expression “(4) shall be substituted;

(4) in regulation (9), for clause (iv) shall be substituted namely:-

“iv. total number of Eligible Investors in a Private Fund does not exceed fifty:

Provided that the above restriction shall not apply to investor as Qualified Institutional Buyer.” “;

(5) in regulation (11),-

(a) for sub regulation (3) shall be substituted namely:-

“(3) Where a Private Fund utilizes or proposes to utilize borrowing, the Private Fund Management Company shall:

i. ensure that it has necessary expertise in managing Private Fund employing borrowing strategies including understanding the impact of borrowing on the overall risk of a portfolio and having the ability to monitor the use of borrowing;

ii. clearly disclose in the Placement Memorandum of the Private Fund, at the minimum, the following:

a. the borrowing parameter for the Private Fund (including the maximum amount of borrowing, duration, and whether secured or unsecured), the basis of borrowing and risks involved;

b. that the liability of the unit holder is limited to their investments in the fund;

c. the borrowing shall only be availed from a financial institution/companies;”;

- (b) after sub regulation (4) the following new sub regulations shall be inserted namely:-

“(5) A Private Fund Management Company may make investment in private funds managed by it out of its surplus equity (i.e. over and above the required minimum equity requirements).

(6) A Private Fund can be categorized into any sub-category subject to investment of at least seventy percentage of its net assets in eligible investment of that that sub-category investment.” “;

- (7) in regulation (12), after clause (viii) the following new clause shall be inserted namely:-

“ix. Name and details of auditor of the Fund” “;

- (8) in regulation (13) the following shall be substituted namely:-

“(13) **Private Fund valuation and pricing.**- The Private Fund Management Company shall ensure that;

- i. the valuation methodology is documented and disclosed in the Placement Memorandum specifying how the portfolio valued and units priced;
- iii. the investment of the Private Fund is fairly valued on a regular basis and the frequency of such valuation shall be clearly disclosed in the Placement Memorandum;
- iii. the fund is valued at least once in a financial year by an independent valuer appointed with the consent of the trustee.”; and

- (9) in Schedule VI, the following shall be substituted namely:-

**“SCHEDULE VI  
[See Regulation 8 (iii)]**

**Contents of Investment Policy Statement**

*Notice: - This is not an exhaustive list. The Private Fund Management Company is bound to disclose any information that may be necessary for Eligible Investors to make an informed judgment.*

**i)- Financial Sector Knowledge and Experience**

In determining eligible investor’s financial sector knowledge and experience, following shall be considered:

- a) The investor's qualification, knowledge and understanding of the relevant financial market, types of financial products or arrangements and the risks involved;
- b) The length of time the investor has participated in relevant financial markets; and
- c) Frequency of dealings and the extent to which the investor has relied on the financial advice from the investment service providers;

**ii)- Risk Tolerance**

In determining eligible investor's risk tolerance following shall be considered:

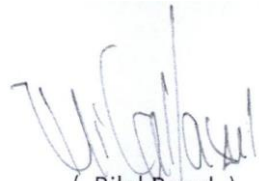
- a) Relevance of a private fund in which investor intends to make investment;
- b) The size and nature of transactions that have been undertaken by the investor in relevant financial markets;
- c) The composition and size of the investor's existing investment portfolio, if any;
- d) Any specific objective that investor intends to achieve through investment in this Private Fund;
- e) Investor's tolerance for risk i.e. both ability and willingness of client to bear risk and return objectives;
- f) Liquidity requirements if any in the near future and time horizon for investment in relation to specific security and overall portfolio;
- g) Investor's tolerance on borrowing or leverage by the private fund selected for investment;
- h) Tax or legal consideration which in future might affect investor's investment decision; and
- h) Other unique circumstances, matters or aspects of investor which the Private Fund Management Company considers relevant;

**iii)- Financial Soundness**

The financial soundness of an eligible investor shall be assessed on the basis of net asset excluding value of residence through latest available tax return and wealth tax statement." .

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[No. SCD/NBFC/NBFCR/2019-]

  
( Bilal Rasul )  
Secretary to the Commission