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PART II

Statutory Notifications (S.R.O.)

GOVERNMENT OF PAKISTAN
SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Islamabad, the 25th September, 2000

NOTIFICATION

S.R.O. ----(I)/2000.- In exercise of powers conferred by section 506 of the Companies Ordinance, 1984 (XLVII of 1984), read with Finance Division's Notification No. S.R.O. 698(I)/86, DATED July 2, 1986, the Securities and Exchange Commission of Pakistan hereby makes the following rules, the same having been published previously as required by the said section, namely :-

THE LEASING COMPANIES (ESTABLISHMENT AND REGULATION) RULES, 2000
(As amended upto December 21, 2000)

1. Short title and commencement. - (1) These rules may be called the Leasing Companies (Establishment and Regulation) Rules, 2000.

(2) They shall come into force at once.

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

(a) "Certificate of investment" means a certificate of investment issued by a leasing company under these rules;

(b) "Commission" means the Securities and Exchange Commission of Pakistan established under Securities and Exchange Commission of Pakistan Act , 1997(XLII of 1997);

(c) "company" means a company incorporated under the Companies Ordinance, 1984 (XLVII of 1984);

- (d) "documents" include vouchers, bills, promissory notes, securities for leases, advances and claims by or against the company and other documents supporting entries in the books of the leasing company;
- (e) "equity" includes paid up share capital, free reserves, unappropriated profits and subordinated loans excluding deferred tax reserves and treasury stocks;
- (f) "exposure or facilities" include fund based and non-fund based facilities;
- (g) "Form" means the Form annexed to the rules;
- (h) "Government securities" include such types of Pakistani rupee and foreign currency obligations of the Federal Government or of a Corporation wholly owned or controlled, by the Federal Government or Provincial Government and guaranteed by the Federal Government as the Federal Government may, by notification in the Official Gazette, declare to the extent determined from time to time, to be Government securities;
- (i) "leasing company" means a company engaged wholly in the business of leasing or which invests in such business at any one time an amount equivalent to at least seventy per cent of its assets.

Provided that cash and bank balances and investment in government securities shall be excluded to calculate investment in leasing business for purposes of this definition;

- (j) "lease key money" means lease security deposit;
- (k) "major shareholder" means any person holding five per cent or more of the paid-up share capital;
- (l) "NBF" means a Non-Bank Financial Institution and includes a DFI, Modaraba, Leasing Company, Housing Finance Company, Investment Bank, Discount House and Venture Capital Company;
- (m) "Ordinance" means the Companies Ordinance, 1984 (XLVII of 1984);
- (n) "person" includes an individual, a Hindu undivided family, a firm, an association or body of individuals whether incorporated or not, a company and every other juridical person;
- (o) "records" includes ledgers day books, cash books and all other manuals or magnetic records used in the business of the leasing company; and
- (p) "small entrepreneurs" mean individuals, firms and companies having fixed assets excluding land and building of the value of not more than twenty

million rupees and facilities allowed to the software exporters or software houses and information technology companies;

(2) The words and expressions used in these rules but not defined shall have the same meanings as are assigned to them in the Companies Ordinance, 1984 (XLVII of 1984).

3. Eligibility conditions for the establishment of a leasing company.- A leasing company may be established if each of its sponsors, proposed directors, chief executive and chairman of the Board of Directors fulfills the following terms and conditions, namely:-

- (a) he has not been associated with any illegal banking business, deposit taking or financial dealings;
- (b) he and companies in which he is a director or major shareholder, have no over-due loans or instalments outstanding towards banks or NBFIs;
- (c) neither he nor the companies in which he is a director or major shareholder has defaulted in the payment of taxes as on the date of application;
- (d) he has not been sponsor, director or chief executive of a defaulting co-operative finance society or finance company;
- (e) he has never been convicted of fraud or breach of trust or of an offence involving moral turpitude or removed from service for misconduct;
- (f) he has neither been adjudged as insolvent nor suspended payment of his debts nor has compounded with his creditors; and
- (g) except for a nominee director, his net-worth as per wealth statements submitted with the tax authorities is not less than twice the amount to be subscribed by him personally;

4. Permission to form a leasing company.- (1) A person desirous of forming a leasing company shall make an application to the Commission as set out in Form-1 providing information, as given in Annexure thereto, along with all the relevant documents and receipt evidencing the payment of non-refundable processing fee amounting to one hundred thousand rupees.

(2) The Commission may, if it is satisfied that the persons seeking permission to form the leasing company has fulfilled the terms and conditions specified in rule 3, permit by an order in writing such person to establish a leasing company.

(3) The permission granted under sub-rule (2) shall be valid for a period of six months unless extended for a maximum period of three months under special

circumstances, on the application of the promoters made before the expiry of said six months.

5. Conditions for grant of licence.- A leasing company shall not be granted licence unless it fulfills the following conditions, namely;

- (a) it is incorporated as a public limited company under the Ordinance;
- (b) it has a minimum paid-up share capital of two hundred million rupees;
- (c) it has allotted at least fifteen per cent of the paid-up share capital to the promoters;
- (d) its promoters and directors have given undertaking that they shall not dispose of their shares for a minimum period of three years from the date of commencement of business except with the prior approval of the Commission;
- (e) appoints its chief executive who does not hold such office in any bank or Non-Bank Financial institution or insurance company or investment company;
- (f) it has given an undertaking that no change in the Memorandum of Association and in the directors shall be made without prior authorization of the Commission and that all conditions of rule 3 shall be complied with; and
- (g) it has given undertaking that the conditions of operation set out in these rules or specified by special order of Commission shall be duly complied.

6. Commencement of leasing operations.- (1) A leasing company shall commence business and its operations only after it has been issued a licence under these rules.

(2) A leasing company shall make an application for obtaining a licence in Form- II.

(3) The licence to carry on business as a leasing company shall be granted by the Commission as set out in Form- III.

(4) Without prejudice to the terms and conditions set out in rule 7, the Commission may while granting licence, or subsequently, impose any other conditions as it may deem necessary.

7. Terms and conditions of operation.- A leasing company shall operate in accordance with the following conditions, namely:-

- (1) it shall -

- (i) invest its assets in leasing business as provided in clause (i) of rule 2;
- (ii) appoint as its chief executive and at least one of the directors having senior management level experience in financial sector preferably in leasing sector for at least five years ;
- (iii) appoint its chief accounting officer who is a chartered accountant or a Cost and Management Accountant or a person having Master's Degree in Commerce or Business Administration with finance specialization and experience of at least five years of accounting in a responsible position;
- (iv) disclose all facilities exceeding thirty per cent of its equity in its accounts;
- (v) maintain accounts of leasing operations having regard to the International Accounting Standards notified under sub-section (3) of section 234 of the Ordinance and technical releases issued by Institute of Chartered Accountants of Pakistan;
- (vi) create reserve fund to which shall be credited -
 - (a) an amount not less than twenty per cent of its after tax profits till such time the reserve fund equals the amount of the paid up capital; and
 - (b) thereafter, a sum not less than five per cent of its after tax profits:

Explanation.- Issuance of bonus shares shall only be made from the reserves available after appropriation created under clause (b) and since such bonus shares will increase the paid up capital, the leasing company shall transfer further amounts to the reserves in order to comply with condition of clause (a);

- (vii) ensure, while granting any facilities, that total facilities availed by any borrower or lessee from Non-Bank Financial Institutions and Banks does not exceed ten times of the equity of the borrower or lessee and obtain copy of accounts relating to the business of each of its borrower/lessee for analysis and record in the following manner, namely :-

Explanation .- Surplus arising on revaluation of assets determined in accordance with International Accounting Standards by a firm of Chartered Accountants approved by the Commission for this purpose may be considered for the purpose of calculating the exposure limit under this rule. The surplus on revaluation of assets so determined is required to be reflected in the balance sheet of the borrower or lessee.

- (viii) ensure, while granting any facility exceeding one million rupees, that
- - (a) current asset to current liabilities ratio of the borrower/lessee does not fall below 1:1: or any ratio as prescribed from time to time, however, this condition may be relaxed in case of facilities upto two million rupees by recording reasons its of.

Provided that current maturities of long term debt not yet due for payment may be excluded from the current liabilities for the purpose of calculating this ratio;

- (b) long term debt equity ratio does not exceed 60:40 or any other ratio as prescribed; and
- (c) due weightage is given to credit report relating to the borrower or lessee and his group obtained from Credit Information Bureau of the State Bank of Pakistan. If the credit reports indicate default, the further facilities shall be extended only after recording reasons to do so;

Explanation.- "Group" means a set of business companies or concerns under joint control or associated together or subsidiaries of a holding company; and

- (d) lessee is registered tax payer and has paid its utility bills.
- (ix) provide facilities at least five per cent of its fund based facilities to small entrepreneurs.
- (x) acquire and maintain membership of Leasing Association of Pakistan (LAP) and follow the code of conduct prescribed by the said Association.
- (xi) follow guidelines issued to safeguard leasing company against their involvement in money laundering activities and other unlawful trades, it shall add to or reinforce the following precautions, a leasing company may have been taking in this regard; namely :-
 - (a) leasing company shall make reasonable efforts to determine the true identity of the customer before extending their services and particular care shall be taken to identify ownership of all accounts and those using safe custody facilities, effective procedures shall be instituted for obtaining identification from new customers and an explicit policy shall be devised to ensure that significant business transactions are not conducted with customers who fail to provide evidence of their Identity;
 - (b) leasing company shall ensure that business is conducted in conformity with high ethical standards and that rules and regulations are adhered to. It is accepted that leasing company normally does not have effective means of knowing whether a transaction stems from or forms part of wrongful activity. Similarly, in an International context, it may be difficult to ensure that cross border transactions on behalf of customers are in

compliance with the regulations of another country. Nevertheless, leasing company shall not set out to offer services or provide active assistance in transactions which in their opinion are associated with money derived from illegal activities; and

(c) leasing company shall establish specific procedures for ascertaining customer status and his sources of earning for monitoring of accounts on a regular basis for checking identities and bonafides of remitters and beneficiaries, for retaining internal record of transactions for future reference. The transactions, which are out of character with the normal operation of the account involving high deposits, withdrawals and transfers, shall be viewed with suspicion and property investigated.

(xii) keep the information upto date provided in annexures to Form I and II by communicating changes and modification therein within fourteen days of such change or modifications.

(xiii) provide return on deposits which may be different for different volumes of deposits provided uniformity is observed within each category but deposits etc. of listed companies, recognised charitable trusts and statutory bodies shall, however, be exempt.

(2) It shall not -

(i) make exposure to a single group for more than twenty per cent of the net investment in leasing finance, however, in arriving at exposure per person under this rule, the following shall be excluded, namely :-

(a) ninety per cent of certificates of deposit and certificates of investments of the lessee under lien with the leasing company;

(b) face value of FIBs lodged by the lessee as collateral; and

(c) Pak rupee equivalent of the face value of Special US Dollar Bonds converted at official rate, lodged by the lessee as collateral.

(ii) allow facilities to any of its directors or to individuals, firms or companies in which it or any of its director is interested as partner, director or guarantor, as the case may be, its chief executive and its major shareholders, including their spouses, parents and children or to firms and companies in which they are interested as

partners, directors or major shareholders of that concern without the approval by the directors of that leasing company:

Provided that the director interested in seeking such approval shall not take part in the proceedings of the approval of the facility;

- (iii) allow unsecured facilities or facilities secured only by guarantees except the facilities provided against bank guarantees, the end use of which will be verified by the leasing company to be productive;

Provided that the bank providing guarantee shall have rating grade not lower than BBB;

- (iv) grant unsecured facilities to or allow facilities on the guarantees of its chief executive, directors and major shareholders including their spouses, parents, and children or to firms and companies in which they are interested as partners, directors or major shareholders of that concern;
- (v) appoint or elect more than twenty-five percent of its directors from the same family, including spouse, dependent lineal ascendants and descendants and dependent brothers and sisters;
- (vi) undertake the business of real estate or provide funds to the construction companies, builders and developers and companies dealing in real estate:

Provided that a leasing company may lease machinery, equipment and vehicles to the construction companies;

- (vii) hold, deal, or trade in real estate except for use of leasing company itself;
- (viii) engage in leasing operations pertaining to -
 - (a) open land;
 - (b) buildings, other than factory building and office building located within or outside the factory premises to be used exclusively as such by a lessee, subject to a maximum of one hundred and twenty square feet per employee and residential undertaking and warehouses; and
 - (c) furniture or furnishing of any type:

Provided that the company may lease hard furniture excluding carpets and curtains upto five per cent of its portfolio;

- (ix) fix the period of lease for less than three years in the case of any lease agreement except in case of computers and other equipment used in information technology;
- (x) remove any of its records or documents relating to its business from Pakistan to a place outside Pakistan without the prior permission of the Commission;
- (xi) allow facilities for speculative purposes;
- (xii) make change in its chief executive and board of directors excluding director nominated by creditors and sponsoring financial institutions without prior approval of the Commission; and
- (xiii) make investment in un-quoted shares of any company without the approval of the Commission

(3) The companies granted licence before the commencement of these Rules, shall raise the paid up capital to two hundred million rupees by 30th June, 2001.

8. Limits on exposure.- (1) Liabilities, excluding contingent liabilities, of a leasing company shall not exceed seven times of its equity during first two years of its operations and ten times of the equity in the subsequent years.

(2) Contingent liabilities of a leasing company shall also not exceed seven times of its equity during the first two years of its operations and ten times of the equity in the subsequent years.

9. Margin against facilities.- (1) Following minimum margins shall be maintained against various facilities and all guarantees will be backed by 100% realizable securities -

- (a) in case of performance bonds, the condition of 100% cover of realizable securities may be relaxed subject to minimum compulsory realizable security cover equivalent to 20% of the amount of the performance bond;
- (b) in case of guarantees issued against mobilisation advance, the condition of 100% cover of realizable securities may be relaxed subject to the following conditions, namely :-
 - (i) guarantees issued should contain a clause that the mobilisation advance shall be released by the beneficiary through the guarantor leasing company only; and

(ii) at the time of issuing such a guarantee the beneficiary should sign an agreement with the leasing companies that releases out of mobilisation advance would be covered by realizable assets; and

(c) in case of bid bonds issued on behalf of domestic consultancy firms bidding for international contracts where the consultancy fees are to be received in foreign exchange, the requirement of 100% cover by realizable securities may be waived off, and this relaxation would also be available to all suppliers of goods and services bidding against international tenders.

(2) No leasing company shall provide unsecured facilities to finance subscription towards floatation of share capital of public limited companies or allow facilities against its own shares or shares of its associated undertaking and subsidiaries thereof or shares of companies not listed on the Stock Exchange and shares of listed companies obtained as collateral shall be subject to the following minimum margins, namely :-

(a) where the current market value does not exceed the preceding twelve months average market value, 20% of the current market value;

(b) where current market value exceeds the preceding twelve months' average market value but does not exceed twice the preceding twelve months' average market value, 40% of the current market value; and

(c) Where the current market value exceeds twice the preceding twelve months' average current market value, 50% of the current market value.

Provided that no leasing company shall hold shares in any company as pledgee or mortgagee, of an amount exceeding thirty percent of its own equity or thirty per cent of the paid-up capital of that company whichever is less.

(3) Certificates of deposit of banks with investment grade will be subject to a margin of 15% and COIs/COMs, TFCs with investment grade rating but not lower than BBB will be subject to a margin of 25% of face value or market value whichever is less.

(4) Facilities against pledge of trading stocks shall be subject to a margin of 25%.

(5) Facilities against hypothecation shall be subject to a margin of 50%.

10. Provisioning for non-performing assets:- Every leasing company shall follow prudential guidelines in the matter of classification of its assets and provisioning there against as specified below:

A. Short Term Facilities:-

Nature Of Classification	For Finance Lease, Operating Lease and Term Loans	Provisions to be made
1. Overdue	Where rentals, profit or mark up or principal are overdue (past due) by 180 days from the due date.	No provision is to be made.
2. Substandard	Where rentals, profit or mark up or principal are overdue (past due) by 181 days but less than one year from the due date.	Provision of 20% of the difference resulting from the outstanding balance of net investment in lease finance and principal less the amount of liquid assets realizable without recourse to a Court of Law and forced sale value of leased assets as valued by valuers fulfilling prescribed eligibility criteria, in accordance with the guidelines provided in this rule.
3. Doubtful	Where rentals, profit or mark up or principal are overdue (past due) more than one year but less than two years from due date.	Provision of 50% of the difference resulting from the outstanding balance of net investment in lease finance and principal less the amount of liquid assets realizable without recourse to a Court of Law and forced sale value of leased assets as valued by valuers fulfilling prescribed eligibility criteria, in accordance with the guidelines provided in this rule.
4. Loss	Where rentals, profit or mark up or principal are overdue (past due) beyond two years from the due date.	Provision of 100% of the difference resulting from the outstanding balance of net investment in lease finance and principal less the amount of liquid assets realisable without recourse to a Court of Law and forced sale value of leased assets as valued by valuers fulfilling prescribed eligibility criteria, in accordance

with the guidelines provided in this rule.

B - Long Term Facilities:-

Nature Of Classification	For Finance Lease/ Operating Lease/ Term Loans	Provisions to be made
1.Overdue	Where rentals, profit or mark up or principal are overdue (past due) for one year from the due date.	No provision is to be made.
2.Substandard	Where rentals, profit or mark up or principal are overdue (past due) by one year but less than two years from the due date.	Provision of 20% of the difference resulting from the outstanding balance of net investment in lease finance and principal less the amount of liquid assets realizable without recourse to a Court of Law and forced sale value of leased assets as valued by valuers fulfilling prescribed eligibility criteria, in accordance with the guidelines provided in this rule.
3. Doubtful	Where rentals, profit or mark up or principal are overdue (past due) by more than two years but less than three years.	Provision of 50% of the difference resulting from the outstanding balance of net investment in lease finance and principal less the amount of liquid assets realisable without recourse to a Court of Law and forced sale value of leased assets as valued by valuers fulfilling prescribed eligibility criteria, in accordance with the guidelines provided in this rule.
4. Loss.	Where rentals, profit or mark up or principal are overdue (past due) beyond three years from	Provision of 100% of the difference resulting from the outstanding balance of

the due date.

net investment in lease finance and principal less the amount of liquid assets realisable without recourse to a Court of Law and forced sale value of leased assets as valued by valuers fulfilling prescribed eligibility criteria, in accordance with the guidelines provided in this rule.

Notes.-

1. Where profit is overdue (past due) by one hundred and eighty days or more from the due date, unrealised profit shall be put in a Suspense Account and shall not be credited to Income Account.
2. Liquid assets mean realizable amount of bank deposits, certificates of deposit, government securities, shares of listed companies, NIT units, certificates of mutual funds, gold ornaments, inventories pledged to leasing companies with possession with 'perfected lien' duly supported with flawless documentation.
3. Subjective evaluation of performing and non-performing lease portfolio shall be made for risk assessment and where considered necessary the category of classification determined on the basis of time based criteria shall be further downgraded. Such evaluation shall be carried out on the basis of adequacy of security inclusive of its realizable value, cash flow of lessee, his operation in the account, documentation covering advances and credit worthiness of the lessee, etc.
4. The rescheduling or restructuring of non-performing lease facilities shall not change the status classification of a lease facilities etc, unless the terms and conditions of rescheduling/restructuring are fully met for a period of at least one year (excluding grace period, if any) from the date of such rescheduling / restructuring. Accordingly, leasing companies are directed to ensure that status of classification as well as provisioning is not changed in relevant reports merely because of the fact that a lease facility has been restructured or rescheduled. However, while reporting to the CIB, such lease facilities may be shown as "rescheduled/restructured" instead of "default".
5. Leasing companies will continue to classify their lease facilities portfolio and make provision there against in accordance with the time based criteria prescribed above. However, where a leasing company wishes to avail of the benefit of collaterals held against lease facilities, they can consider the realizable value of mortgaged or pledged assets for deduction from the outstanding principal amount of lease rentals against which such assets are mortgaged/pledged, before making any provisions. The

realizable value shall be the value that could currently be obtained by selling the mortgaged or pledged assets in a forced/distressed sale conditions. Accordingly, leasing companies shall take into account only forced sale value into consideration while determining the required provisions. Lease rentals against which securities are not available, or which have not been valued according to these guidelines and verified by the external auditors, shall continue to be classified and provided for according to the time-based criteria. Leasing companies shall follow the following uniform criteria, for determining the realizable value of mortgaged, pledged or leased assets, namely:-

- (i) Only leased assets having registered mortgage, equitable mortgage (where NOC for creating further charge has not been issued by leasing company) and pledged/leased assets shall be considered. Assets having pari passu charge shall be considered on proportionate basis;
- (ii) hypothecated assets and assets with second charge and floating charge shall not be considered;
- (iii) valuations shall be carried out by an independent professional valuer who should be listed on the panel of valuers maintained by the Leasing Association of Pakistan (LAP) for this purpose. LAP shall lay down the minimum eligibility criteria with the prior approval of the Securities & Exchange Commission of Pakistan for placement of valuers on the panel to be maintained by it. The valuer while assigning any values to the mortgaged, pledged or leased assets, shall take into account all relevant factors affecting the saleability of such assets including any difficulty in obtaining their possession, their location and condition and the prevailing economic conditions in the relevant sector, business or industry. The realizable values of mortgaged, pledged or leased assets so determined by the valuers must have to be a reasonably good estimate of the amount that could currently be obtained by selling such assets in a forced/distressed sale condition. The valuers should also mention in their report the assumptions made, the calculations/formulae/basis used and the method adopted in determination of the realisable values;
- (iv) valuation shall be done at least once in three years. For example, any valuation done on 1st November, 1999 would be valid for consideration for the accounting periods ending on December 31, 1999, and December 31, 2001 and for subsequent accounting periods a fresh valuation would be required. If valuation is older than three years as explained above, a re-valuation should be done, otherwise the valuation shall be taken as nil;
- (v) the categories of mortgaged, pledged or leased assets to be considered for valuation along with discounting factors to be applied would be as under (no other assets shall be taken into consideration) :-
 - (a) **Liquid assets** : Valuation of Liquid Assets, excluding pledged stocks, which are dealt with at (d) below, shall be determined by the leasing company itself and verified by the external auditors.

However, in the case of pledged shares of listed companies values should be taken at market value as per active list of Stock Exchange on the balance sheet date and as per guidelines given in the TR-23 issued by the Institute of Chartered Accountants of Pakistan. Moreover, valuation of shares pledged against lease rentals after issuance of this circular shall be considered only if these have been routed through Central Depository Company of Pakistan (CDC), otherwise these will not be admissible for deduction as liquid assets while determining required provisions;

- (b) **Land and building** : Valuation of land and buildings would be accepted as determined by the valuers in accordance with the criteria given at point 5(iii) above and no further discounting factor would be applied on forced sale value determined by them; and
- (c) **Plant and machinery** : Entries of classified lessees shall be divided into following categories at the balance sheet date and discounting factors shall be applied to forced sale value as specified below :

Category	Discounting factors to be applied to forced state value
A. In operation	No discounting factors to be applied
B. In operation at the time of valuation but now closed/in liquidation	<ul style="list-style-type: none"> • 15% of forced sale value on the date of closure. • 1st year after closure - 25% of forced sale value. • 2nd year - 50% of forced sale value.
C. Closed / in liquidation at the time of valuation and no change in situation.	<ul style="list-style-type: none"> • After valuation - 1st year 25% of forced sale value. • 2nd year - 50% of forced sale value.

- (d) **Pledged stocks** : In case of pledged stocks of perishable and non-perishable goods, forced sale value should be provided by valuers, which should not be more than six months old, at each balance sheet date. The goods should be perfectly pledged, the operation of the godowns should be in the control of the leasing company and regular valid insurance and other documents should be available. In case of perishable goods, the valuer should also give the approximate date when these are expected to be of no value.
- (vi) for valuations of mortgaged or leased assets carried out within a period of twelve months prior to December 31, 1999, these may be considered

provided they were carried out by an independent professional valuer and a revised certificate is obtained from the valuer regarding the forced sale value of the assets as on the date the valuation was carried out. These valuations should then be subject to the discounting percentages and other criteria as laid down in this Circular.

- (vii) the values of mortgaged/pledged/leased assets determined by the valuers shall be subject to verification by the external auditors, who may reject cases of valuation, which in their opinion, do not appear to have been professionally carried out and values determined are unreasonable, or in the case of which valid documentation of mortgage, pledge or lease, supported by legal opinion wherever required, is not available on record.

6. Investments and other assets.- Subjective evaluation of lease portfolio and other assets shall be carried out by the leasing company. Classification of such assets and provision required thereagainst shall be determined keeping in view the risk involved and the requirements of the International Accounting Standards.

7. Timing of creating provisions.- Leasing companies shall review, at least on a quarterly basis, the collectibility of their lease rentals portfolio and shall properly document the evaluation so made. Shortfall in provisioning, if any, determined as a result of the quarterly assessment shall be provided for immediately in their books of accounts by the leasing companies.

8. Verification by the Auditors.- The external auditors as a part of their annual audits of leasing companies shall verify that all requirements of this rule in classification of assets and determination of provisions required thereagainst have been complied with. The Securities and Exchange Commission of Pakistan shall also check the adequacy of provisioning during on-site inspection.

11. Overdues and defaults - recovery thereof:- (1) Every leasing company shall furnish the Commission with a list of defaulters on prescribed format, on quarterly basis. A list of rescheduled and restructured facilities would also be submitted to the Commission in the similar manner on prescribed format. A person, whether natural or juristic, shall be deemed to be defaulter if he (or his dependent family members or concerns owned or controlled by him or concerns in which he or his dependent family members are major shareholders) has failed to pay off or liquidate any fiduciary obligation towards any leasing company in Pakistan as was agreed upon or required under the terms and conditions of availment of the financing facility or to do or perform an act agreed to or undertaken in writing to be done or performed by him and such failure has continued for a period of 360 days from the date on which he was required to make the payment or to do or perform the act.

(2) Every leasing company shall nominate an officer as recovery officer or constitute a section as recovery section depending upon the magnitude of defaults.

(3) Besides the measures presently instituted by each leasing company, the leasing company will set quarterly recovery targets as a percentage of the overdue obligations and communicate the same on quarterly basis to the Commission.

(4) A progress report on the recovery in relation to the targets shall be submitted to the Commission on quarterly basis. The leasing company will also be required to explain deficiency if any, in meeting the targets and the strategies evolved with a view to ensuring achievement of subsequent targets.

(5) Wherever considered legally appropriate by the leasing company, cases of default may be referred to the Courts. The list of such cases and progress of recovery shall also be sent to the Commission on a quarterly basis.

12. Bar to certain transactions.- No leasing company shall -

- (a) transfer ownership of controlling shares, merge with, acquire or take over any other leasing company unless it has obtained prior approval of the Commission to the scheme of such merger, acquisition or take over; or
- (b) employ as a broker, directly or indirectly, any of its directors, officers, or employees, or a person, or a major shareholder who beneficially owns, whether individually or in association with close relatives more than five percent either of the equity or other securities with voting rights, if any, issued by the leasing company.

Explanation.- "Relative" means spouse, brothers, sisters, father, mother, grand father, grand mother, other lineal ascendants and descendants, sons, daughters, grand sons and grand daughters.

13. Rate of mark up and fees.- A leasing company may charge rental, mark up, commitment fee or other charges on its facilities as the case may be in accordance with the prevailing rates.

14. Insurance coverage.- A leasing company shall -

- (a) obtain sufficient insurance coverage on its own or on its clients' benefit against any losses that may be incurred as a result of employees' fraud or gross negligence;
- (b) ensure that properties being financed by it have adequate insurance cover; and
- (c) provide full insurance cover for its deposits/COIs etc. of less than one hundred thousand rupees.

15. Internal audit.- Every leasing company shall have an Internal Audit Department whose head will report to its chief executive directly and shall, inter alia, be responsible for compliance with these rules and establish an effective means of testing, checking and compliance with its policy and procedures established by it.

16. Places of business.- (1) A leasing company may open further places of business but it shall intimate the same to the Commission within fifteen days.

(2) A Leasing Company shall also intimate to the Commission the closure of any of its places of business within fifteen days.

17. Issue of certificates of investment.- (1) A leasing company which fulfils the following conditions, may apply to the Commission for its permission to issue certificates of investment, namely:-

- (a) the company has been actively engaged in leasing business for a period of two years;
- (b) the corporate and fiduciary conduct of the company and its directors has been satisfactory; and
- (c) the company has obtained credit rating of minimum investment grade from a credit rating agency registered with the Commission under the Securities and Exchange Ordinance, 1969 (XVII of 1969), and such credit rating shall be updated each year during the currency of the issue:

Provided that the company shall publish the credit rating in each financial statement, advertisement and brochures.

(2) If the Commission is satisfied that the company, fulfils the conditions of eligibility specified in sub-rule (1), it may give permission to such company to issue certificates of investment.

(3) All leasing companies issuing certificates of investment shall observe the following conditions, namely:-

- (a) a certificate of investment issued under these rules shall be registered in the name of the person to whom it is issued;
- (b) the maturity period of certificate of investment shall not be less than three months and more than five years:

Provided that a certificate shall be redeemable before its maturity period but no return shall be paid if redeemed earlier than three months;

- (c) no advertisement inviting the general public for making investment in such certificates shall be published unless prior approval of the Commission to this effect has been obtained and such advertisement shall contain the credit rating;

Provided that if no decision of the Commission is conveyed to the leasing company within fifteen days of the receipt of application, the advertisement shall be deemed to have been cleared for publication; and

- (d) not less than fifteen per cent of the resources raised through certificates of investment shall either be invested in registered National Investment Trust units, Government securities or listed securities subject to the conditions as prescribed in the rules made for investment of provident fund in listed securities excluding the certificates of investment held by financial institutions.

18. Eligibility of banks and NBFIs to undertake leasing business .- (1)

Banks and NBFIs may undertake leasing business subject to licence to be granted by the Commission.

(2) The Commission may, while granting the licence under sub-rule (1), impose such conditions as it may deem necessary.

19. Submission of reports, etc..- (1)The Commission may, by general or special order, require a leasing company, to prepare and send to members, the registrar, any authority, a stock exchange and any other person such periodical statement of accounts, information or other reports in such forms and manner and within such time, as may be specified in the order.

(2) The Commission shall monitor the general financial condition of a leasing company, and, at its discretion, may order special audit and appoint an auditor to carry out detailed scrutiny of the affairs of the company, or appoint both an auditor and an inspector, provided that the Commission may, during the pendency of the scrutiny, pass such interim orders and directions as may be deemed appropriate-

(3) On receipt of the special audit report or report from the inspector, the Commission may direct the company to do or to abstain from doing certain acts and issue directives for immediate compliance which shall forthwith be complied.

(4) Every leasing company shall submit returns as may be prescribed by the Commission from time to time.

20. Penalties.- (1) Whoever fails or refuses to comply with, or contravenes any provision of these rules, or knowingly and willfully authorises or permits such failure, refusal or contravention shall, in addition to any other liability under the Ordinance, be also punishable with fine which may extend to two thousand rupees and where, the contravention is a continuing one, with or further fine which may extend

to one hundred rupees for every day after first during which such contravention continues.

(2) Notwithstanding anything contained in sub-rule (1), in case of contravention of any provision of these rules, the Commission may cancel the licence of the leasing company after issuing a show cause notice and giving such company an opportunity of being heard or pass any other order deemed appropriate by the Commission.

21. Repeal.- The Leasing Companies (Establishment and Regulation) Rules, 1996 are hereby repealed.

FORM-I
[See rule 4(1)]
APPLICATION FOR PERMISSION TO FORM A LEASING COMPANY

Dated, the _____

To

The Securities and Exchange
Commission of Pakistan,
Islamabad.

Dear Sir,

We hereby apply for grant of permission under rule 4 of the Leasing Companies (Establishment and Regulation) Rules, 2000, to form a leasing company under the name and style of -----

The information and documents as required in the Annexure to this form duly verified and signed by all promoters and proposed directors along with five spare copies of this application and an affidavit by them as to the correctness of the details, is submitted.

We undertake to keep this information upto date by communicating changes or modifications therein within fourteen days of such changes/modifications.

A receipt of Rs.-----being the processing fee, deposited in-----
on -----is enclosed.

Yours faithfully,

Verification by
Oath Commissioner.

ANNEXURE

[See rule 4(1) and 7(1) (xiii)]

INFORMATION TO BE SUPPLIED FOR OBTAINING PERMISSION TO FORM A LEASING COMPANY AND SUBSEQUENT CHANGE IN DIRECTORSHIP AND CHIEF EXECUTIVE

1. Full name, former name if any, father's or husband's name, nationality, residential and business address, national tax number, present occupation of each sponsor, proposed director, proposed chief executive and proposed chairman of the Board. (Institutional sponsors shall mention their names and addresses only instead of giving all these particulars of their nominee directors).
2. Names and addresses of companies, firms and other organizations of which the aforesaid sponsors, proposed chief executive and proposed chairman are or have been directors, partners or office holders during the last ten years. Copies of annual accounts of such companies and firms for the last three years alongwith summary of their paid-up share capital, free reserves, profit after tax and dividend payment to be provided.
3. Financial standing, educational as well as professional qualifications and experience of persons mentioned in paragraph 1 above, supported by documentary evidence.
4. Percentage of capital, each sponsor proposes to contribute in the proposed company.
5. Feasibility report of the proposed company.
6. Evidence of payment of income tax and wealth tax by the sponsors in individual capacity as well as by the companies, firms, etc., wherein they are or have been directors during the preceding five years.
7. Net-worth certificate of each sponsor supported by a duly authenticated copy of the latest wealth statement filed with the taxation department. In the case of sponsors/directors residing in countries where filing of wealth statement is not the requirement of law, a certificate of personal net-worth and general reputation issued by a bank of international repute shall be acceptable.
8. Names of the bankers of the sponsors alongwith their account numbers.
9. Draft of the Memorandum and Articles of Association.
10. Affidavit from each person mentioned in paragraph 1 above, stating that-
 - (i) he has not been associated with any illegal banking business, deposit taking or financial dealings;

- (ii) he and companies in which he is a director or major shareholder have no over-due loans or installments outstanding towards banks or other financial institutions;
- (iii) neither he nor companies in which he is a director or major shareholder has defaulted in paying taxes as on the date of application;
- (iv) he has not been sponsor, director or chief executive of a defaulting cooperative finance society or finance company;
- (v) he has never been convicted of fraud or breach of trust or of an offense involving moral turpitude or removed from service for misconduct;
- (vi) he has neither been adjudged an insolvent nor has defaulted in making payments, to his creditors;
- (vii) his net-worth is not less than twice the amount to be subscribed by him personally (not applicable to a nominee director).

FORM-II

[See rule 6(2) and 7(1)(xiii)]

**APPLICATION OBTAINING FOR LICENCE TO OPERATE
AS A LEASING COMPANY**

Dated, the-----

To,
The Securities & Exchange
Commission of Pakistan,
Islamabad.

Dear Sir,

We hereby apply for grant of licence under rule 6 of the Leasing Companies (Establishment and Regulation) Rules, 2000, to operate as a leasing company.

2. We hereby furnish the following information:-

- (a) Date of incorporation as a limited company.
- (b) Authorised, subscribed and paid-up share capital of the company (sponsors' equity indicated separately).
- (c) Names and addresses of directors and number of shares held by each of them.
- (d) Directors' interest, direct or indirect, in any other company(ies) with details of such interest.
- (e) Details of persons or group controlling the company including major shareholders with number and value of shares held.
- (f) Name(s) of holding, subsidiary and associated undertaking(s), if any.
- (g) Details of qualified staff engaged.
- (h) Reasons for selecting the proposed place of business with statistical data.

(i) Additional facts in support of this application.

3. Certified copies of the Memorandum and Articles of Association and Certificate of Incorporation are enclosed.

4. An affidavit as to the correctness of the above information by the chief executive and two director is also furnished herewith. We undertake to keep this information upto date by communicating changes or modifications therein within fourteen days of such change or modifications.

Yours faithfully,

Signature-----
(To be signed by all the directors)

FORM -III

[See rule 6 (3)]

Securities & Exchange Commission of Pakistan

Islamabad, Dated, the _____

Registration No. _____

LICENCE TO CARRY ON THE BUSINESS OF A LEASING COMPANY

The Securities & Exchange Commission of Pakistan having considered the application for grant of licence under rule 6 of the Leasing Companies (Establishment and Regulation) Rules, 2000, by * _____ and being satisfied that the said * _____ is eligible for the licence , hereby grants, in exercise of the powers conferred by sub-rule (3) of rule 6 of the Leasing Companies (Establishment and Regulation) Rules, 2000, licence to * _____ subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

Signature of the Officer

* Name of the Company

(HIZBULLAH SIDDIQUI)

Joint Director

No.F. 3(5A)/Misc/LES/96 dated _____ 22nd September, 2000