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The

Venture Capital Companies and Venture Capital Funds

Rules, 2001

27Feb, 2000

In exercise of the powers conferred by section 43(b) of the Securities & Exchange Commission of Pakistan Act, 1997 read with section 33 of the Securities and Exchange Ordinance, 1969 and in pursuance of section 32 of the said Ordinance, the Securities & Exchange Commission of Pakistan, with the approval of the Federal Government, hereby makes the following rules to regulate the business of venture capital companies and venture capital funds, namely:-

CHAPTER I

PRELIMINARY

1. **Short title and commencement.**

i. These rules may be called the Venture Capital Companies and Venture Capital Funds Rules, 2001.

ii. They shall come into force at once.

2. **Definitions.- In these rules, unless there is anything repugnant in the subject or context,**

i. Administrator" means a company or a person appointed by the Commission to manage the affairs of a venture capital company or venture capital fund, on cancellation of licence granted to the venture capital company or, as the case may be, venture capital fund under these rules;

ii. "Commission" means the Securities and Exchange Commission of Pakistan;

iii. "form" means a form set out in the Schedule to these rules;

iv. "venture capital company" means a company which is engaged in financing any venture project, through equity or other instruments whether convertible into equity or not and provides managerial or technical expertise to venture projects, or acts as a management company for management of venture capital fund;

v. "venture capital fund" means a company which is managed by a venture capital company and raises funds through private placement of equity and other securities, as specified in these rules and invests its resources in venture projects; and

vi. "venture project" means a company, registered under the Companies Ordinance, 1984 (XLVII of 1984), or a partnership, or a sole proprietorship, which is engaged in a business activity and has such characteristics as may be notified by the Commission, from time to time, to be treated as venture projects.

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CHAPTER II

PREGULATION OF THE BUSINESS OF VENTURE CAPITAL COMPANIES

3. **Eligibility conditions for grant of licence to a venture capital company.**

i. A venture capital company shall not be granted licence unless it fulfills the following conditions, namely :-

a. it is incorporated as a public limited company under the Companies Ordinance, 1984 (XLVII of 1984);

b. it is not engaged in any business other than that of investment in venture projects;

c. it has a minimum paid-up share capital of five million rupees subscribed by the promoters and by others through private placement;

d. it has certified that the chief executive of the venture capital company does not hold such office in any competing business;

Explanation.-The phrase “competing business” shall have the same meaning as defined in section 203 of the Companies Ordinance, 1984 (XLVII of 1984).

e. it has certified that not more than twenty-five per cent of its directors are from the same family, including spouse, dependent lineal ascendants and descendants and dependent brothers and sisters ; and

f. it has appointed as its chief accounting officer a person who is a chartered accountant or cost and management accountant or a person having Master's Degree in Commerce or Business Administration from a university recognized by the Universities Grants Commission with at least five years experience in finance and accounting.

ii. The sponsors, directors, chief executive and chairman of the Board of Directors, fulfill the following conditions, namely:-

a. they have not been associated with any illegal banking business, deposit taking or financial dealings;

b. they and companies in which they are directors or hold ten per cent or more beneficial interest, have no over-due loans or installments, outstanding towards banks or other financial institutions or defaulted in the payment of taxes;

c. they have never been convicted of fraud or breach of trust or economic offense or of an offense involving moral turpitude or removed from service for misconduct;

d. they have neither been adjudged as insolvent or compounded with their creditors;

e. the promoters and directors of such company are, in the opinion of the Commission, persons of means and integrity and have special knowledge of matters which the company may have to deal with as a venture capital company; and

f. the proposed chief executive and at least one of the proposed sponsor directors have senior management level experience in industrial enterprises or the financial sector for at least five years.

4. **Condition for grant of licence.-**

. No venture capital company shall commence business unless a licence is granted to it under these rules.

i. For obtaining a licence a venture capital company shall--

a. make an application to the Commission on form I providing information as sought in Annex therein, along with all the relevant documents.

b. submit a bank draft payable to the Commission evidencing the payment of non-refundable application processing fee amounting to twenty five thousand rupees for a company having paid up capital up to twenty million rupees and fifty thousand rupees for a company having paid-up capital of more than twenty million rupees; and

c. submit an undertaking that no change in the memorandum and articles of association and in the directors shall be made without prior written authorization of the Commission and that all conditions for grant of licence shall be complied with.

ii. On being satisfied that a venture capital company is eligible for the grant of a licence and that it would be in the public interest so to do, the Commission may grant a licence in form II.

iii. Without prejudice to any other conditions under these rules, the Commission may while granting licence impose any conditions, as it may deem necessary.

5. **Terms and conditions of operation.**

Unless granted a general or specific waiver by the Commission, a venture capital company shall

. not expose more than forty per cent of its equity to any single group of companies;

Explanation.- For the purposes of this rule group of companies shall mean companies controlled by the members of one family including spouse, dependent lineal ascendants and descendants and dependent brothers and sisters.

a. disclose in its accounts all investments in companies and group of companies exceeding ten per cent of paid up capital of venture capital company;

ensure that the maximum exposure of the venture capital company to its directors, affiliated companies and companies in which any of the directors and their family members including spouse, dependent lineal

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ascendants and descendants and dependent brothers and sisters hold controlling interest shall not exceed ten per cent of the overall portfolio of venture capital; and

b. ensure that the maximum exposure of the venture capital company to its directors, affiliated companies and companies in which any of the directors and their family members including spouse, dependent lineal ascendants and descendants and dependent brothers and sisters hold controlling interest shall not exceed ten per cent of the overall portfolio of venture capital; and

c. not accept any investment from any investor, which is less than one million rupees;

6. **Renewal of Licence.** (1) The licence granted to the company under rule 4 shall be valid for one year and shall be renewable annually on payment of a fee of twenty thousand rupees on an application being made in form III.

(2) The Commission may, after making such inquiry and after obtaining such further information as it may consider necessary, renew the licence of such company, for one year in form IV on such conditions as it may deem necessary.

7. **Private placement.**

In addition to its paid-up capital, a venture capital company may receive monies for investment in venture projects through private placement of such securities as may be notified by the Commission from time to time

8. **Placement memorandum.**

A venture capital company shall, before soliciting placement of its securities, file with the Commission a placement memorandum which shall inter alia give details of the terms subject to which monies are proposed to be raised from such placements.

CHAPTER III

REGULATION OF THE BUSINESS OF VENTURE CAPITAL FUND

9. **Eligibility conditions for grant of licence to a venture capital fund.-**

. A venture capital fund shall not be granted licence unless it fulfills the following conditions, namely :-

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a. it is incorporated as a company under the Companies Ordinance, 1984 (XLVII of 1984);

b. it is not engaged in any business other than that of investment in venture projects;

c. it has a minimum paid-up capital of fifty million rupees raised through private placement; and

d. for the purpose of managing its entire business, it has entered into a contract, in writing, with a venture capital company and a copy of which has been filed with the Commission.

a. The board of venture capital fund shall not have a director, who is on the board of any venture project being financed by the fund.

10. **Condition for grant of licence.-**

. No venture capital fund shall commence business unless a licence is granted under these rules.

a. For obtaining a licence a venture capital fund shall __

a. make an application to the Commission on form V providing information as sought in Annex therein, along with all the relevant documents;

b. submit a bank draft payable to the Commission evidencing the payment of non-refundable application processing fee amounting to fifty thousand rupees; and

c. submit an undertaking that no change in the memorandum and articles of association and in the directors shall be made without prior written authorization of the Commission and that all conditions for grant of licence shall be complied with.

b. On being satisfied that a venture capital fund is eligible for the grant of a licence and that it would be in the public interest so to do, the Commission may grant a licence in form VI.

c. Without prejudice to any other conditions under these rules, the Commission may while granting licence impose any conditions, as it may deem necessary.

11. **Terms and conditions of operation.**

Unless granted a general or specific waiver by the Commission, a venture capital fund shall

. not expose more than forty per cent of its equity to any single group of companies;

Explanation.- For the purposes of this rule group of companies shall mean companies managed by the members of one family including spouse, dependent lineal ascendants and descendants and dependent brothers and sisters.

a. disclose in its accounts all investments in companies and group of companies exceeding ten per cent of paid-up capital of venture capital fund;

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b. ensure that the maximum exposure of the venture capital fund to its directors, affiliated companies and companies in which any of the directors and their family members including spouse, dependent lineal ascendants and descendants and dependent brothers and sisters hold controlling interest shall not exceed ten per cent of the overall portfolio of venture capital; and

c. not accept any investment from any investor, which is less than one million rupees

12. **Renewal of licence.**

. The licence granted to the fund under rule 10 shall be valid for one year and shall be renewable annually on payment of a fee of twenty thousand rupees on an application being made on form VII.

a. The Commission may, after making such inquiry and after obtaining such further information as it may consider necessary, renew the licence of such fund, one year on form VIII on such conditions as it may deem necessary.

13. **Private placement.**

A venture capital fund shall raise and receive monies for investment in venture projects through private placement of such securities as may be notified by the Commission, from time to time.

14. **Placement memorandum.**

A venture capital fund shall, before soliciting placement of its securities, file with the Commission a placement memorandum which shall **inter alia** give details of the terms subject to which monies are proposed to be raised from such placements.

CHAPTER IV

OTHER MATTERS PERTAINING TO REGULATION OF

VENTURE CAPITAL COMPANIES AND VENTURE CAPITAL FUNDS

15. **Enquiry.**

The Commission may cause an enquiry to be made, by any person appointed in this behalf, into the affairs of

any venture capital company or a venture capital fund, registered under these rules or any of its directors, managers and other officers of the venture capital company or the venture capital fund, as the case may be, and the provisions of section 21 and 22 of the Securities and Exchange Ordinance, 1969 (XVII of 1969), shall apply to such an enquiry.

16. **Cancellation of licence.**

. Where the Commission is of the opinion that a venture capital company or venture capital fund has contravened any provision, or has failed to comply with any requirement of any rule or direction made or given hereunder, the Commission may, if it considers necessary in the public interest so to do, by order in writing, cancel the licence of the venture capital company or venture capital fund as the case may be:

Provided that no such order shall be made except after giving the company an opportunity of being heard.

i. Upon cancellation of the licence, the functions and carrying on the business of venture capital company or the venture capital fund shall cease and the Commission may move the Court for a winding up order in respect of the venture capital company or venture capital fund take such other action against the venture capital company or the venture capital fund, as the Commission may deem fit.

ii. Notwithstanding cancellation of licence under sub-rule (1), the directors, chief executive, chairman and other responsible officer of the venture capital company or venture capital fund shall not be absolved of any civil and criminal liability under these rules, the Securities and Exchange Ordinance, 1969 (XVII of 1969), or any other law for the time being in force.

iii. Where the licence of the venture capital company has been cancelled under sub-rule (1), the Commission may, by order in writing, appoint a person as the Administrator or another venture capital company to manage the affairs of the venture capital company whose licence has been cancelled and the funds so managed by such venture capital company subject to such terms and conditions as may be specified in the order.

iv. The management of the affairs of the venture capital company or the venture capital fund, shall vest in the Administrator on and from the date of the Administrator's appointment until a liquidator is appointed by the Court.

v. On an application by another venture capital company the Commission may, if so satisfied that any venture capital company and venture capital fund can be managed and that such an action would be in public interest, may grant a licence to such an applicant for the management of venture capital company which has been entrusted to the Administrator along with the venture capital fund, if any.

17. **Filing of annual report with the Commission.**

. A copy of the annual report together with copies of the balance sheet, profit and loss account and the auditors' report of the venture capital company and all the venture capital funds being managed by such

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companies shall be filed with the Commission within four months of the close of the accounting period. The annual report shall inter alia include the results of each investment in venture projects in abridged form.

i. A copy of the report of the directors to the share holders in respect of the first half of the year together with copies of balance sheet, profit and loss account of the venture capital company and funds managed by the venture capital companies shall be furnished to the Commission within two months of the close of the relevant accounting period.

18. **Appointment of auditor**

A venture capital company shall appoint an auditor, who is a Chartered Accountant provided that the auditor so appointed

. is not the auditor of any venture project in which the venture capital company or fund has made an investment; and

i. is a partner of a firm, which has at least five partners.

19. **Powers of the Commission to call information.**

The Commission may at any time call for any information or give a direction to a venture capital company or venture capital fund with respect to any matter relating to its activity as a venture capital company or fund

THE SCHEDULE

FORM 1

[See rule 4(2)]

APPLICATION FORM FOR GRANT OF

LICENCE AS A VENTURE CAPITAL COMPANY

Securities and Exchange Commission of Pakistan,
Government of Pakistan,

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Islamabad.

Dear sir,

We hereby apply for grant of licence to*..... under rule 4 of the Venture Capital Companies Rules, 2001.

2. Two copies of the memorandum and articles of association are enclosed. Necessary information required under rule 3 and 4 of the said Rules has been annexed. We undertake to keep this information up to date at all times.

Yours faithfully,

Name/Signature of the Secretary or a director of the company. _____

Name of the company.

Annex To Form I

Information to be enclosed at the time of application for grant of licence.

PART I

Please provide information in respect of directors, chief executive and chairman:

. Name, former Name (if any).

i. Father's name.

ii. Nationality.

iii. Residential address.

iv. Business address.

v. Qualifications: (Please attach copies of matriculation certificate and that of last degree obtained).

Year.	Institution attended.	Degree / Certificate.

vi. Training:

Year.	Institution attended.	Degree / Certificate.

vii. Experience.

Organization.	Position held.	From.	To.	Areas of responsibility

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viii. Financial standing:

Note:

i. Please attach credit worthiness certificate from the bank.

ii. Please attach evidence for payment of income tax and wealth tax in individual capacity as well as in respect of the companies, firms, etc., wherein they are or have been directors during the preceding five years.

ix. Financial performance during the past three years of the companies in which the proposed directors, sponsors, chairman and chief executive have been holding office or have been or have ten per cent or more beneficial interest, on the following pattern: (please attach copies of annual reports of the companies).

Year.	Paid-up capital.	Free reserve.	Profit/Loss after tax.	% Dividend paid. (in Rs)

x. Feasibility report:

PART II

i. Whether the company has been incorporated as a public limited company under the Companies Ordinance, 1984. Yes No

ii. If yes, whether copy of certificate of incorporation issued by CRO and two copies of memorandum and article of association have been enclosed with the application. Yes No

iii. Whether processing fee amounting to Rs…… has been deposited in favour of the Securities and Exchange Commission of Pakistan in designated branch of the bank. Yes No

iv. Whether Chief Executive of the company is

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holding the same position in a bank, Non-Banking Yes No

viii. Financial Institution or insurance company or any competing business.

ix. Whether the company is engaged in any other business i.e., other than financing and providing Yes No

x. technical and managerial services to a venture project.

xi. If yes, does the business corroborate with object clause of the company. Yes No

xii. How much share capital has been contributed by each sponsor. Please give information on the following pattern:

Name of sponsor.	Amount contributed in the capital (in Rs.).	Percentage.

xiii. Please give details in respect of all directors who clause of the company. Yes No

xiv. beneficial owner ship of 10% or more as follows.

Name of director.	Official position.	Name of the company.

xv. Whether twenty-five per cent of the directors of the company are from same family i.e., spouse, dependent lineal ascendants and descendants and dependent brothers and sisters. Yes No

xvi.

i. Whether any of the sponsors, directors, chief executive, chairman has been associated with any illegal banking business, deposit taking or Yes No

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ii. financial dealing.

iii. Whether any of the sponsors, directors, chief

executive, chairman and persons holding ten Yes No

iv. percent beneficial interest have been convicted of fraud or breach of trust or economic offense or an offense involving moral turpitude or removed from service for misconduct

v. Whether any of the sponsors, directors, chief executive, chairman and persons holding ten percent beneficial interest or the companies

in which they hold such positions have defaulted in payment Yes No
of taxes or have overdue bank loan or defaulted on such loans
or have accumulated over-due loans or installments towards
banks or other financial institutions or have ever been
adjudged as insolvent or have defaulted in making payments
to creditors

Note:

Please attach affidavit on non-judicial stamp paper in support of statement made in this part.

FORM-II

[See rule 4(3)]

THE SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

LICENCE TO CARRY ON THE BUSINESS
OF A VENTURE CAPITAL COMPANY .

Islamabad, the .....

The Securities and Exchange Commission of Pakistan, having considered the application for grant of licence and being satisfied that *.....is eligible for grant of licence and that it would be in the public interest so to do, in exercise of the powers conferred by rule 4 of the Venture Capital Companies Rules, 2001, hereby grants licence to *.....for a period of one year from.....to.....and subject to the provisions of the Securities and Exchange Ordinance, 1969, and the rules made thereunder and subject to further conditions stated herein below:

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.....

(Signature of the officer)

_____

* Name of the company.

FORM III

[See rule 6(1)]

APPLICATION FOR RENEWAL OF LICENCE TO OPERATE AS VENTURE CAPITAL COMPANY

Islamabad the .....

Securities and Exchange Commission of Pakistan,
Government of Pakistan,
Islamabad

Dear Sir,

1. We hereby apply for renewal of the licence of *..... under rule 6 of the Venture Capital Companies Rules, 2001.
2. The licence issued or renewed earlier is due to expire on.....
3. Original receipt of challan evidencing payment of renewal fee of Rs..... is enclosed.
4. Schedule of investment clearly indicating project-wise investment made, results of investment as on the date of application and results expected in future is enclosed herewith
5. It is requested that the licence may be renewed w.e.f. ..... for a period one year.

Yours faithfully

Name/Signature of the
Secretary or a director
of the company.

_____

* Name of the company.

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FORM IV

[See rule 6(2)]

THE SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

LICENCE TO CARRY ON THE BUSINESS OF
A VENTURE CAPITAL COMPANY

Islamabad, the .....

The Securities and Exchange Commission of Pakistan, having considered the application for renewal of licence submitted by *.....under rule 6(1) of the Venture Capital Companies Rules, 2001, and being satisfied that it would be in the public interest so to do, in exercise of powers conferred by rule 6(2) of the said Rules, hereby renew the licence of*..... subject to the provisions of the Securities and Exchange Ordinance, 1969, and the rules made thereunder.

.....

(Signature of the officer)

_____

* Name of the company.

FORM V

[See rule 10(2)]

APPLICATION FORM FOR GRANT OF
LICENCE AS A VENTURE CAPITAL FUND

Securities and Exchange Commission of Pakistan,
Government of Pakistan,
Islamabad.

Dear Sir,

We hereby apply for grant of licence to*..... under rule 10(2) of the Venture Capital Companies Rules, 2001.

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(2). Two copies of the memorandum and articles of association are enclosed. Necessary information required under rule 9 and 10 of the said Rules has been annexed. We undertake to keep this information up-to-date at all times.

Yours faithfully,

Name/Signature of the Secretary
or a director of the venture capital
fund

_____

* Name of the venture capital fund.

Annex to form V

Information to be enclosed at the time of application for grant of licence.

PART I

Please provide information in respect of directors, chief executive and chairman:

i. Name, former Name (if any).

ii. Father's name.

iii. Nationality.

iv. Residential address.

v. Business address.

PART II

a. Whether the company has been incorporated as a public limited company under the Companies Ordinance, 1984. Yes No

b.

c. If yes, whether copy of certificate of incorporation

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issued by CRO and two copies of memorandum Yes No

d. and article of association have been enclosed with the application.

e. Whether processing fee amounting to Rs…….

has been deposited in favour of the Securities and Yes No

f. Exchange Commission of Pakistan in designated branch of the bank.

g.

Feasibility report is enclosed. Yes No

FORM VI

[See rule 10(3)]

THE SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

LICENCE TO CARRY ON THE BUSINESS OF A VENTURE CAPITAL FUND

Islamabad, the .....

The Securities and Exchange Commission of Pakistan, having considered the application for grant of licence and being satisfied that *.....is eligible for grant of licence and that it would be in the public interest so to do, in exercise of the powers conferred by rule 10(3) of the Venture Capital Companies Rules, 2001, hereby grants licence to *.....for a period of one year from.....to.....and subject to the provisions of the Securities and Exchange Ordinance, 1969, and the rules made thereunder and subject to further conditions stated herein below:

.....

(Signature of the officer)

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_____

* Name of the venture capital fund.

FORM VII

[See rule 12(1)]

APPLICATION FOR RENEWAL OF LICENCE TO OPERATE AS VENTURE CAPITAL FUND

Islamabad the .....

Securities and Exchange Commission of Pakistan,
Government of Pakistan,
Islamabad

Dear Sir,

i. We hereby apply for renewal of the licence of *..... under rule 12(1) of the Venture Capital Companies Rules, 2001.

ii. The licence issued and renewed earlier is due to expire on.....

iii. Original receipt of challan evidencing payment of renewal fee of Rs..... is enclosed.

iv. Schedule of investment clearly indicating project-wise investment made, results of investment as on the date of application and results expected in future is enclosed herewith.

v. It is requested that the licence may be renewed w.e.f. ..... for a period one year.

Yours faithfully

Name/Signature of the
Secretary or a director
of the company.

_____

* Name of the venture capital fund.

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form VIII

[See rule 12(2)]

THE SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

LICENCE TO CARRY ON THE BUSINESS OF A

VENTURE CAPITAL FUND

Islamabad, the .....

The Securities and Exchange Commission of Pakistan, having considered the application for renewal of licence submitted by *.....under rule 12(2) of the Venture Capital Companies Rules, 2001, and being satisfied that it would be in the public interest so to do, in exercise of powers conferred by rule 12(2) of the said Rules, hereby renew the licence of*..... subject to the provisions of the Securities and Exchange Ordinance, 1969, and the rules made thereunder.

.....

(Signature of the officer)

_____

* Name of the venture capital fund.