

The Securities and Exchange Ordinance, 1969

(Ordinance NO. XVII OF 1969)

♣An Ordinance to provide for the protection of investors, [regulations of capital markets and issue] and dealings in securities.

WHEREAS it is expedient to provide for the protection of investors, ¹[regulations of capital markets and issue] and dealings in securities and for matters ancillary thereto;

²[***]

NOW, THEREFORE, in pursuance of the Proclamation of the 25th day of March, 1969, read with the Provisional Constitution Order, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

CHAPTER I PRELIMINARY

Short title, extent and commencement

1. (1) This Ordinance may be called the Securities and Exchange Ordinance, 1969.

(2) It extends to the whole of ³[Bangladesh].

(3) It shall come into force on such date as the Commission may, by notification in the official Gazette, appoint.

Definitions

2. In this Ordinance, unless there is anything repugnant in the subject or context,-

(a) “associate” means any partner, employee, officer or director of a member;

⁴[(b) “bank” means a banking company as defined in the Banking Companies Act, 1991 (Act No. XIV of 1991)]

(c) "broker" means any person engaged in the business of effecting transactions in securities for the account of others;

⁵[(cc) "Commission" means the Securities and Exchange Commission constituted under the Securities and Exchange Commission Act, 1993 (Act No. 15 of 1993)]

⁶[(ccc) "Commodity Futures Contract" means an agreement to purchase or sell a particular commodity for delivery or settlement in the future at a price to be determined by a contract that obligates each party to fulfill the contract at the specified price and that may be settled by delivery, cash or offset at the Commodity Exchange duly registered with the Commission and in relation to Commodity Futures the expression "commodity" includes,-

- (i) agricultural, livestock, fishery, forestry, mining or energy goods, and any product that is manufactured or processed from any such goods; and
- (ii) any other matter as may be notified by the Commission in the official gazette;

(cccc) "derivative" includes

- (i) a security derived from a debt instrument, share, loan, whether secured or unsecured, risk instrument or contract for differences or any other form of security;
- (ii) a contract which derives its value from the prices, or index of prices, of underlying securities;]
- (d) "equity security" means any stock or transferable share (preferred or common) or similar security representing ownership; any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; any such warrant or right itself ; and such other security as may be prescribed;
- (e) "investment adviser" includes a person who is, for compensation, engaged in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing or selling securities, but does not include-

(i) a bank;

(ii) any lawyer, accountant, engineer or teacher whose performance of such services is solely incidental to the practice of his profession;

(iii) any broker, ⁷[jobber or dealer], member or associate whose performance of such services is solely incidental to the conduct of his business as a broker, ⁸[jobber or dealer], member or associate and who receives no separate compensation therefore;

(iv) the publisher of any newspaper, news magazine, or other publication of general and regular circulation; or

⁹[* * *]

(f) "investment company" means a company engaged principally or wholly in buying and selling securities of other companies and includes a company eighty per cent of whose paid up capital is employed at any one time as investment in other companies, ¹⁰[* * *];

¹¹[(ff) "issue of capital" means the issuing of any securities whether for cash or otherwise;]

(g) "issuer" means any person who has issued or proposes to issue any security;

(h) "jobber" ¹²[or dealer] means any person engaged in the business of effecting transactions in securities for his own account, through a broker or otherwise, but does not include any person who trades in securities for his own account, either individually or in some fiduciary capacity, otherwise than as a part of a regular business;

(i) "member" means a member of a Stock Exchange;

(j) "person" includes a Hindu undivided family, a firm, an association or body of individuals, whether incorporated or not, a company and every other artificial juridical person;

(k) "prescribed" means prescribed by rules made under this Ordinance;

¹³[(l) "securities" means any of the following instruments issued or to be issued, by or for the benefit of a company, whether incorporated in Bangladesh or not, namely:-

(i) any Government security as defined in the Securities Act, 1920 (X of 1920); and

(ii) other instruments creating a charge or lien on the assets of the company; and

(iii) instruments acknowledging loan to or indebtedness of the company and guaranteed by a third party or entered into jointly with a third party, and includes any stock, transferable share, script, note, debenture, debentures stock, bond, investment contract ¹⁴[, derivative, commodity futures contract, options contract, exchange-traded fund] and pre-organisation certificate or subscription, and, in general, any interest or instrument commonly known as a “security”; and, any certificate of deposit for, certificate of interest or participation in, temporary or interim certificate for, receipt for, or any warrant or right to subscribe to or purchase, any of the foregoing, but does not include currency or any note, draft, bill of exchange or banker's acceptance or any note which has a maturity, at the time of issuance, or not more than twelve months, exclusive of days of grace, or any renewal thereof whose maturity is likewise limited;]

(m) “Stock Exchange” means any person who maintains or provides a market place or facilities for bringing together buyers and sellers of securities or for otherwise performing with respect to securities the functions commonly performed by a Stock Exchange, as that term is generally understood, and includes such market place and facilities.

CHAPTER IA

ISSUE OF CAPITAL

Control over issue of capital

2A. (1) ¹⁵[No issuer, or no company] incorporated in Bangladesh shall, except with the consent of the Commission, make an issue of capital outside Bangladesh.

(2) ¹⁶[No issuer, or no company], whether incorporated in Bangladesh or not, shall, except with the consent of the Commission,-

(a) make an issue of capital in Bangladesh;

(b) make in Bangladesh any public offer of securities for sale;

(c) renew or postpone the date of maturity or repayment of any security maturing for payment in Bangladesh.

(3) The Commission may, on an application made to it, make an order according recognition to an issue of capital made or to be made outside Bangladesh.

¹⁷[(4) While giving consent under sub-section (1) & (2) commission shall not fix the price of the issue.]

**Control
over
prospectus
and other
documents**

¹⁸[2B. (1) Every prospectus or other document offering for subscription or publicly offering for sale any securities shall, before its issuance, be submitted to the commission for its examination, in such form and manner and containing such information as may be prescribed , and such prospectus or other document shall be issued only after the commission permits its issuance on being satisfied that it has complied with all the requirements of this Ordinance or the rules and of any other law relating thereto:

Provided that the consent of the commission to the issue or offer of the securities shall not absolve the responsibility of the issuer for the merit and accuracy of the offering.

(2) No person shall issue in Bangladesh any prospectus or other document offering for subscription or publicly offering for sale any securities which does not include a statement that -

(a) Its issuance has been permitted by the commission ;and

(b) the consent of the commission has been obtained to the issue or offer of the securities.]

**Purchase of
securities**

2C. No person shall accept or give any consideration for any securities in respect of an issue of capital made or proposed to be made in Bangladesh or elsewhere unless the consent or recognition of the Commission has been accorded to such issue of capital.

**Power to
impose
conditions**

¹⁹[2CC. Notwithstanding anything contained in কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮নং আইন) or in any other law for the time being in force, or