

ශ්‍රී ලංකා ප්‍රජාතාන්ත්‍රික සමාජවාදී ජනරජයේ ගැසට් පත්‍රය
අති විශේෂ

The Gazette of the Democratic Socialist Republic of Sri Lanka
EXTRAORDINARY

අංක 1526/27 - 2007 දෙසැම්බර් 07 වැනි සිකුරාදා - 2007.12.07
No. 1526/27 - FRIDAY, DECEMBER 07, 2007

(Published by Authority)

PART I : SECTION (I) — GENERAL

Government Notifications

FINANCE LEASING ACT, No. 56 OF 2000

DIRECTION give by the Director of the Department of Supervision of Non-Bank Financial Institutions, under section 34 of the Finance Leasing Act, No. 56 of 2000.

S. S. RATNAYAKE,
Director.

Department of Supervision of Non-Bank Financial Institutions,
Central Bank of Sri Lanka,

On this 6th day of December, 2007.

Finance Leasing (Debt Instruments) Direction, No. 1 of 2007

1. This Direction may be cited as the Finance Leasing (Debt Instruments) Direction, No. 1 of 2007 and shall apply to every registered finance leasing establishment, which is a public company referred to in paragraph (c) of section 3 of the Finance Leasing Act (hereinafter referred to as a 'relevant establishment') and shall come into operation with immediate effect.

2. Subject to the provisions of this Direction, the Finance Leasing (Gearing Ratio) Direction, No. 4 of 2006 and such other directions that may be issued from time to time, a relevant establishment which,

- (i) maintains an unimpaired, issued and paid up capital not less than the amount specified by the Director by Notice issued under paragraph (a) of sub-section (1) of section 34A of the Finance Leasing Act, No. 56 of 2000 (hereinafter referred to as the 'Act') may borrow money by the issue of debt instruments on public offer basis, under the following conditions :

- (a) It shall maintain, at all times, its core capital at an amount not less than Rupees Two Hundred Million.
- (b) If the total value of any issue of a debt instrument exceeds Rs. 200 million and is not guaranteed by a rated financial institution, which is not a related company, the relevant establishment shall obtain a credit rating for the debt instrument from an independent rating agency acceptable to the Central Bank of Sri Lanka and submit the rating report to the Director within one month from the date of the report, and any revision thereto.
- (c) A relevant establishment shall apply for an obtain the written approval of the Director, prior to the publication or display of any advertisement soliciting subscription to a debt issue. A relevant establishment shall forward to the Director a copy of any advertisement, in print or electronic form, at least 3 working days prior to the publication/display of such advertisement. Every advertisement soliciting subscription to a debt issue and to be —
 - (aa) published in the print media (excluding hoardings, bill boards and banners) by a relevant establishment shall contain a statement that such relevant establishment has been registered under the Finance leasing Act, No. 56 of 2000 ; the date of incorporation of the relevant establishment ; the names of its directors ; the amount of core capital, borrowings and profit/(loss) as appearing in its financial statement which are certified by its external auditor ; the rate of interest, the periodicity of payment of interest and the annual effective rates of interest in respect of all maturities ; the credit rating of the debt instrument or the name and the credit rating of the financial institution that guarantees the issue ; and the terms and conditions subject to which the debt instrument is issued ;
 - (bb) transmitted or broadcast through audio or audio-visual media (including websites posted on the internet and electronic mail) by a relevant establishment shall contain a statement that such relevant establishment has been registered under the Finance Leasing Act, No. 56 of 2000 ; the credit rating of the debt instrument or the name and the credit rating of the financial institution that guarantees the issue ; the rate of interest, the periodicity of payment of interest and the annual effective rates of interest in respect of all maturities ;
 - (cc) displayed by a relevant establishment through hoardings, bill boards and banners, shall state the fact that such relevant establishment has been registered under the Finance Leasing Act, No. 56 of 2000 and the credit rating of the debt instrument or the name and the credit rating of the financial institution that guarantees the issue.

- (ii) maintains an unimpaired, issued and paid up capital less than the amount specified by the Director by Notice issued under paragraph (a) of sub-section (1) of Section 34A of the Act, shall not issue any debt instrument on public offer basis and may borrow money by the issue of debt instrument through private placements.

3. A relevant establishment shall apply and obtain written approval of the Director, prior to the issue of any debt instrument and such application shall contain the following :

- (i) the credit rating of the debt instrument or the name and the credit rating of the financial institution that guarantees the issue, type of the debt instrument, attributes of the debt instrument, total value of the issue, sale/discount price of a debt instrument, minimum subscription , redemption period(s), the rate of interest, the periodicity of payment of interest and the annual effective rate of interest in respect of all maturities, security offered, ranking in the order of claims, conditions relating to early redemption, transferability and underwriters, lawyers, auditors, trustees to the issue, if any ;
- (ii) a certificate by the external auditors of the relevant establishment confirming the unimpaired issued and paid up capital and the core capital of the relevant establishment at the time of application and at the end of the immediately proceeding two financial years ;

- (iii) a certified copy of the section of the Operations Manual of the relevant establishment that covers the operational aspect relating to issue of debt instruments ;
- (iv) a certified copy of a specimen or a photocopy of the debt instrument (the wording of the text on the face and the terms and conditions on the reverse) ;
- (v) a certified copy of the prospectus delivered to the Registrar of Companies, in terms of the Companies Act, No. 7 of 2007, if any ;
- (vi) a statement by the Board of Directors detailing the manner in which the monies raised by the issue of debt instrument shall be utilized ;
- (vii) a certified copy of a statement by the Board of Directors containing the following information at the date of application :
 - (a) amount outstanding of the total borrowing of the relevant establishment.
 - (b) types, terms and conditions and amount outstanding (capital and interest) of borrowings by the issue of debt instruments.

4. The date of redemption of any debt instrument should not be less than one month and should not exceed sixty months from the date of issue of such debt instrument.

- 5. (i) Every relevant establishment that borrows money by the issue of debt instruments shall issue a debt instrument to every person who invests in such debt instrument, which for all purposes shall be deemed to be an acknowledgement of acceptance of such sum of money by the relevant establishment.
- (ii) Every such debt instrument shall be signed by at least two officers, who are authorized by the Board of Directors for the purpose of issuing of debt instruments.
- (iii) Every debt instrument shall contain the following :
 - (a) serial number of the debt instrument ;
 - (b) name and registered address of the relevant establishment ;
 - (c) date of issue of the debt instrument ;
 - (d) name, national identity card number or passport number and the address of the investor ;
 - (e) amount of money received by the relevant establishment by the issue of such debt instrument in words and figures ;
 - (f) the annual rate of interest payable and the basis of payment (monthly or at redemption) ;
 - (g) date on which the debt instrument is redeemable ;
 - (h) names of officers who signed the debt instrument.

6. In addition to the requirements imposed under the Financial Transactions Reporting Act, No. 6 of 2006 and any Rules issued there under, every relevant establishment shall maintain a record of the following particulars in respect of each debt instrument issued by such relevant establishment—

- (a) Serial number,
- (b) Name, address, contact details and national identity card number or passport number of each investor or in the case of corporate investors, name, registered address, principal place of business, company registration number ;

- (c) Amount of investment ;
- (d) Date of redemption of the debt instrument ;
- (e) Rate of interest and the basis of payment of interest (monthly or at redemption) ;
- (f) Date and amount of each payment (interest and/or principal).

7. Every relevant establishment that borrows money by the issue of debt instrument shall display at each place of business of the relevant establishment, the latest audited financial statement of the relevant establishment.

8. The Director may issue additional terms and conditions as he may deem necessary to any one or group or category of relevant establishments at the time of granting approval under paragraph 3 hereof or at any time thereafter.

9. In this Direction :-

- (i) “Board of Directors” means the Board of Directors of the relevant establishment.
- (ii) “Core capital” shall mean the aggregate of the following :-
 - (a) issued and paid-up ordinary share capital ;
 - (b) issued and paid-up non-redeemable, non-cumulative preference shares ;
 - (c) share premium ;
 - (d) the Reserve Fund maintained under the Finance Leasing (Reserve Fund) Direction, No. 5 of 2006 ;
 - (e) reserves which are not earmarked for any specified purposes by statute to by the Sri Lanka Accounting Standards ;
 - (f) retained profits or accumulated losses ;
 - (g) current year profits or losses ; and
 - (h) general provision for bad and doubtful accommodations which is an amount provided over and above the specific provision on the non-performing portfolio and an additional specific provision on the performing portfolio, subject to confirmation by the auditors.
- (iii) “Debt instrument” means, a debenture, bond, promissory note or any other debt instrument as may be determined by the Director ;
- (iv) “Director” means the Director of the Department of Supervision of Non-Bank Financial Institutions of the Central Bank of Sri Lanka ;
- (v) “Financial institution” means a bank licensed under the Banking Act, No. 30 of 1988 or a finance company registered under the Finance Companies Act, No. 78 of 1988 or a finance leasing establishment registered under the Finance Leasing Act, No. 56 of 2000 ;
- (vi) “Private placement” means, the issue of any debt instrument, without the issue of a prospectus or advertising through the mass media, including the internet, posts, facsimile, electronic mail, leaflets, banners, posters or booklets or through any kind of propaganda carried out by any means whatsoever ;
- (vii) “Related company” means the holding company, a subsidiary company and a subsidiary company of the holding company of the relevant establishment.