



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Specialized Companies Division

No. SCD-SD(Enf)/NAMCO/2014/137.

BEFORE THE EXECUTIVE DIRECTOR

IN THE MATTER OF SHOW CAUSE NOTICE ISSUED TO
NATIONAL ASSET MANAGEMENT COMPANY LIMITED AND ITS DIRECTORS

Show Cause Notice	No.SCD-SD(Enf)/NAMCO/2013/236 dated November 1, 2013
Date of 1 st Hearing	December 18, 2013
In Attendance	1. Syed Shahab Qutub - Authorized representative of the respondents (i.e. National Asset Management Company Limited and its Directors)
Date of 2 nd Hearing	March 21, 2014
In Attendance	1. Mr. Zaheer Ahmed Paracha - CEO designate of M/s National Asset Management Company Limited 2. Mr. Saleem Shahzada Director of M/s National Asset Management Company Limited
Date of 3 rd Hearing	April 7, 2014
In Attendance	1. Syed Shahab Qutub - Authorized representative of the respondents 2. Mr. Zaheer Ahmed Paracha - CEO designate of M/s National Asset Management Company Limited



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Specialized Companies Division

ORDER

1. This Order shall dispose of the proceedings initiated against M/s. National Asset Management Company Limited (hereinafter referred to as "**NAMCO**") and its directors (hereinafter collectively referred to as the "**Respondents**") through a Show Cause Notice dated November 1, 2013 (hereinafter referred to as the "**SCN**") served under Section 282J(1) and Section 282J(2) read with Section 282D and Section 282M(1) of the Companies Ordinance, 1984 (hereinafter referred to as the "**Ordinance**") for contravention of Rule 7(3) of Non-Banking Finance Companies (Establishment & Regulation) Rules 2003 (hereinafter referred to as the "**NBFC Rules 2003**") read with Regulation 4 of the Non-Banking Finance Companies and Notified Entities Regulations, 2008 (hereinafter referred to as the "**NBFCs & NEs Regulations, 2008**") and violation of Regulation 54(3a), read with Regulation 45 and Regulation 45A of the NBFCs & NEs Regulations, 2008.
2. NAMCO is a Non-Banking Finance Company incorporated in Pakistan as public unlisted company in the year 2005 under the Ordinance. NAMCO was licensed by the Securities and Exchange Commission of Pakistan (hereinafter referred to as the "**Commission**") to undertake the businesses of asset management and investment advisory services under the NBFC Rules 2003 and the NBFCs & NE Regulations, 2008.
3. The shareholding details of NAMCO as on June 30, 2013 is given hereunder:

Share Holders' Name	Shares Holding (%)
Associated:	
First National Equities Limited	37.38%
Switch Securities (Pvt.) Limited	4.67%
First Pakistan Securities Limited	4.67%
Ali Aslam Malik	6.55%
	53.27%
Others:	
Azneem Bilwani	28.04%
Roomana Nasir	7.48%
Basheer Ahmed & Nishat Basheer	7.01%



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Specialized Companies Division

Syed Etrat Hussain Rizvi/Samina Rizvi	4.18%
Others	0.02%
	46.73%
Total	100.00%

4. In accordance with the monthly returns as provided by NAMCO, total equity of NAMCO amounts to Rs.130.38 million as of March 31, 2014. Further, NAMCO has zero (0) portfolio of investment advisory.
5. As of March 31, 2014, NAMCO is managing one closed-end collective investment scheme i.e. NAMCO Balanced Fund (hereinafter referred to as "**NBF**") and one open end collective investment scheme i.e. NAMCO Income Fund (hereinafter referred to as "**NIF**") with net assets amounting to Rs.1,081.87 million and Rs.115.28 million respectively.
6. Fund performance of NBF and NIF during past five years as reported by the NAMCO, are illustrated as hereunder:

Year (July-June)	NAMCO Balanced Fund				NAMCO Income Fund			
	Benchmark Return %	Fund Return %	Out/(under) Performance %	Net Assets (Rs. in M)	Benchmark Return %	Fund Return %	Out/(under) Performance %	Net Assets (Rs. in M)
FY2013-14*	22.70	15.51%	(7.19)	1,081.87	9.64	4.22	(5.42)	115.28
FY 2012-13	39.50	19.81	(19.69)	941.51	9.97	6.74	(3.23)	106.98
FY 2011-12	11.03	3.08	(7.95)	790.82	12.45	15.14	2.69	107.39
FY 2010-11	23.99	12.97	(11.02)	766.21	13.08	8.30	(4.78)	91.95
FY 2009-10	28.68	18.60	(10.08)	678.16	12.44	7.48	(4.96)	278.50
FY 2008-09	(28.76)	(29.15)	(0.39)	721.81	13.99	14.76	1.37	286.40

*YTD (Jul 13-Mar 14)

7. NBF underperformed its benchmark for the last six years consecutively, while NIF underperformed for four years out of six years as given above.
8. The SCN dated November 1, 2013 containing the matter of non-compliance related to equity was issued based on the following facts:
 - i. WHEREAS, NAMCO has been operating below the minimum equity requirement (hereinafter referred to as "**MER**") since July, 2011 in contravention of Rule 7(3) of NBFC Rules, 2003 and Regulation 4 of the



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Specialized Companies Division

NBFCs & NEs Regulations, 2008, which are reproduced for ease of reference as follows:

Rule 7(3) of the NBFC Rules 2003:

"An NBFC shall comply with such minimum equity requirement in respect of each form of business specified by the Commission from time to time by notification in the official Gazette".

Regulation 4 of the NBFCs & NEs Regulations, 2008:

"Minimum equity requirement- An NBFC licensed by the Commission to undertake any form of business as specified under section 282A shall, at all the times, meet the minimum equity requirement in respect of that form of business as provided in Schedule 1"

- ii. AND WHEREAS, in terms of Schedule of I of Regulation 4 of the NBFCs & NEs Regulations, 2008, the minimum equity requirement for undertaking Asset Management and Investment Advisory services are as follows:

Form of Business	Minimum Equity Requirement for Fresh License	Time Schedule for existing NBFCs		
		Existing Equity requirement to be complied by ¹ [30 th June, 2011]	Equity requirement latest by ² [30 th June, 2012]	Equity requirement latest by ³ [30 th June, 2013]
Asset management services	Rs.200 million	Rs. 100 million	Rs. 150 million	Rs. 200 million
Investment advisory Services	Rs. 30 million	Rs. 30 million	Rs. 30 million	Rs. 30 Million
Total MER for Asset Management & Investment Advisory Services	Rs.230 million	Rs.130 million	Rs.180 million	Rs.230 million

Since, NAMCO was holding licenses for both the Asset Management as well as Investment Advisory services, therefore, it was required to comply with the MER of Rs.130 million by June 30, 2011, Rs.180 million by June 30, 2012 and Rs.230 million by June 30, 2013 respectively.



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Specialized Companies Division

Further, shortfall in NAMCO's equity vis-à-vis MER over the years is illustrated hereunder:

Year	Minimum Equity Requirement as per Schedule 1 of Regulation 4			NAMCO's Equity as per Annual Accounts	Shortfall in MER
	For Asset Management	For Investment Advisory	Total		
30 th June 2011	Rs.100 million	Rs. 30 million	Rs. 130 million	Rs. 102.17 million	Rs.27.83 million
30 th June 2012	Rs. 150 million	Rs. 30 million	Rs. 180 million	Rs. 104.81 Million	Rs.75.19 million
30 th June 2013	Rs.200 million	Rs.30 million	Rs.230 million	Rs.143.09 million	Rs.86.91 million
31 st March 2014*	Rs.200 million	Rs.30 million	Rs.230 million	Rs.130.38 million	Rs.99.62 million

* As per monthly online returns submitted by NAMCO to the Commission

- iii. AND WHEREAS, NAMCO was repeatedly advised to ensure its compliance with the prescribed equity requirement. In this connection, Commission's repeated communiqués are also provided in the below paras:
- iv. AND WHEREAS, the matter of MER was earlier raised with NAMCO vide the Commission's letter dated April 20, 2011 wherein NAMCO was cautioned regarding its potential equity shortfall. NAMCO was advised that its equity was just Rs.70.34 million as of February 28, 2011, which was inconsistent with the requirements prescribed in Regulation 4 of the NBFCs & NEs Regulations, 2008, which required an NBFC holding license of asset management and investment advisory services to meet the minimum equity of Rs.130 million by June 30, 2011 as illustrated in Schedule I above. Hence, NAMCO was requested to share details of arrangements being made for complying with the said requirement till June 30, 2011. NAMCO vide its letter dated April 28, 2011 apprised that the sponsors had expressed their willingness to replenish the required equity as soon as their cash flow improved.
- v. AND WHEREAS, NAMCO was again advised through letters dated November 24, 2011 and January 09, 2012 to provide status of compliance of the aforesaid regulatory requirement. However, NAMCO



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Specialized Companies Division

vide its letters dated December 15, 2011 and February 02, 2012 reiterated its commitments that the sponsors were fully aware of the situation and that the applicable MER would be complied with by June 30, 2012.

- vi. AND WHEREAS, in view of depleting equity position of NAMCO and its continued failure to meet the MER was again taken up with the NAMCO through letters dated March 06 & March 12, 2012. Subsequently, NAMCO through its letter dated March 14, 2012 informed that the Board was assured of the sponsors' resolve to meet the applicable equity requirement by June 30, 2012.
- vii. AND WHEREAS, on account of the continuous assurances by the sponsors as communicated by NAMCO for complying with the MER, NAMCO was requested in terms of letter dated March 28, 2012 to furnish working plan as to how the requisite equity requirement would be materialized by June 30, 2012. NAMCO yet again reaffirmed that the necessary equity requirement would be met by the aforesaid timeline.
- viii. AND WHEREAS, despite reiterated pledges for ensuring regulatory compliance and in consequence of NAMCO's persistent failure to meet MER, the management was again advised through the Commission's letters dated September 20, 2012, November 30, 2012, December 14, 2012 and March 27, 2013 to provide a workable time bound plan for injecting the required capital. Since the deteriorating equity position of NAMCO remained a serious concern on its ability to undertake asset management services, NAMCO at the same time was also informed that its continued failure to achieve the said compliance may lead to cancellation of licenses for carrying out the businesses of asset management and investment advisory services. However, instead of replenishing necessary equity, NAMCO reiterated its sponsors' assurance of meeting the equity shortfall through issuance of Right Shares by June 30, 2013. However, the said timeline also expired and the commitment was not materialized.
- ix. AND WHEREAS, in spite of multiple communiqués in the matter and considerable lapse of time, compliance was not achieved and no firm



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Specialized Companies Division

commitment was conveyed by the sponsors, Board of Directors and the NAMCO's management to address the outstanding issue of equity shortfall. Therefore, the Board of Directors of NAMCO was issued with a final advice through the Commission's letter dated August 23, 2013 to ensure compliance with the aforesaid regulatory requirement by September 15, 2013 failing which may result in initiation of appropriate enforcement action in accordance with the applicable provisions of law. However, neither the requisite compliance was achieved nor any specific time bound plan was furnished, instead NAMCO's reply letter dated September 18, 2013 contained similar assertions that the Board had considered the proposal of issuance of 60% Right Shares at par to the tune of Rs.60 million. The response also contained that the Board decision was intimated to the major shareholders of NAMCO and that they were in the final stage of issuance of Right Shares to meet the MER.

9. The SCN also contained the matter of minimum fund size of NIF based on the following facts:

- i. WHEREAS, in addition to the above narrated non-compliance of MER, NAMCO also remained non-compliant with the requirements prescribed in Regulation 54(3a) of the NBFCs & NE Regulations, 2008, which provides as follows:

"The minimum size of an Open End Scheme shall be one hundred million rupees at all times during the life of the scheme and all existing Open End Schemes shall ensure compliance with this minimum scheme size limit by the first day of July, 2012."

- ii. AND WHEREAS, the net assets of NIF remained below the regulatory threshold since July, 2012. Initially this matter was communicated through the Commission's letter dated March 12, 2012 cautioning potential non-compliance of the above said Regulation with an advice to intimate its strategy to meet the minimum fund size within the timeframe specified in the above referred Regulation. NAMCO vide letter dated March 14, 2012 apprised the Commission that the strategy



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Specialized Companies Division

was being formulated to increase the fund size to Rs.150 million by mid June 2012. However, no progress was noticed in this connection within the given timeline. The matter was again taken up with NAMCO vide Commission's letters dated September 20, 2012 and also on December 14, 2012 whereas, NAMCO through letter dated December 24, 2012 assured that the size of NIF would not be less than Rs.100 million from January 2013 onwards. Nonetheless, at the juncture of its own suggested timeline i.e. January 31, 2013 NAMCO failed to ensure compliance.

- iii. AND WHEREAS, in spite of the above failures, the Commission out of good faith, upon NAMCO's requests of March 29, 2013 and April 17, 2013, granted an extension in time period until June 30, 2013 to increase NIF's size to minimum of Rs.100 million. In the meantime NAMCO was advised that failure to comply within the extended timeline, the Commission would direct the trustee of NIF to revoke the scheme in terms of the applicable regulatory framework.
- iv. AND WHEREAS, during the same period, it was observed that instead of making efforts to increase the fund size, NAMCO redeemed its own investment amounting to Rs.53.55 million from NIF during the period from January 21, 2013 to March 13, 2013, and out of this redemption proceeds an amount of Rs.31.45 million was extended to its major sponsor i.e. M/s First National Equities Limited (hereinafter referred to as "**FNEL**") under "advance and prepayments" for purchase of NBF shares.
- v. AND WHEREAS, on July 03, 2013 MCB Financial Services Limited (hereinafter referred to as "**MCB FSL**"), trustee of NIF in terms of Regulation 41(m) of the NBFCs & NEs Regulations, 2008 informed the Commission that NAMCO circumvented the regulatory requirement by injecting funds in NIF on temporary basis merely to comply with the regulatory requirement indicating its incapability to raise fresh funds and non-viability of NIF. In connection, the information obtained from NAMCO, it was observed that investments amounting to Rs.88.84 million were made in NIF during the period June 24 to 28, 2013, out of the said investment an amount of Rs.81.32 million was redeemed by the



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Specialized Companies Division

investors during the period ranging July 1-3, 2013, which clearly substantiates the concerns raised by the trustee.

10. AND WHEREAS, as a result of the violations of Rule 7(3) of NBFC Rules, 2003 read with Regulation 4 and Regulation 54(3a) of the NBFCs & NEs Regulations, 2008 NAMCO and its directors were served with the SCN on November 1, 2013.
11. AND WHEREAS, NAMCO furnished its response to the SCN dated November 1, 2013 through its authorized representative, Syed Shahab Qutub on November 20, 2013, as per which the arguments were mainly focused on the following:
 - i. SCN was issued without any lawful authority and therefore, the same was liable to be withdrawn;
 - ii. increase in equity to the applicable equity requirement forming the basis for the SCN was not lawfully notified and therefore the same was not enforceable;
 - iii. SCN was issued without taking note of the various concrete steps and measures already undertaken by the management of NAMCO as well as its sponsors for raising NAMCO's equity to the required minimum level;
 - iv. Management of NAMCO, after receiving letters from the Commission, referred the matter to the major shareholder i.e. FNEL through letter dated December 26, 2012;
 - v. Matter was subsequently taken up at the FNEL's board meeting held on February 28, 2013 wherein it was decided to advise NAMCO to issue Right Shares to raise the capital required to meet the MER. It was also decided that not only FNEL would take up its proportion of the Right Issue of NAMCO but would also make necessary arrangements for taking up of the unsubscribed portion of the Right Issue after getting the requisite regulatory approval and fulfilling other regulatory requirements;
 - vi. Board of Directors of NAMCO in its meeting held on April 27, 2013 approved in principle the issuance of 60% Right Shares at par, which



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Specialized Companies Division

was expected to be executed soon after the conclusion of FNEL's Right Issue;

- vii. It is also argued that NAMCO's Right Issue could not be held by June 30, 2013 on account of delay in FNEL's Right Issue;
- viii. FNEL's financial plan envisaged Right Issue by FNEL for Rs.1 billion following which FNEL would make an equity investment of up to Rs.100 million in NAMCO pursuant to NAMCO's Right Issue. In order to execute the said mode of investment, FNEL obtained approval by way of a special resolution from its members for an equity investment of up to Rs.100 million in NAMCO;
- ix. FNEL's Right Issue was also on course with the approval of the schedule for the issuance of Letter of Right having been accorded by the Karachi Stock Exchange on October 1, 2013 hence, the process for FNEL's Right Issue would conclude in December 2013, following which FNEL would be able to make the required equity investment in NAMCO. It is further stated that the last date for the acceptance and payment of shares was November 22, 2013 as per the approved schedule;
- x. NAMCO's management is committed for meeting the MER at the earliest and had demonstrated its intent by taking concrete steps in this behalf in accordance with NAMCO's majority shareholder i.e. FNEL;
- xi. NAMCO had also taken steps to improve its top management profile to attract further investment.

12. With regards to the matter of shortfall in NIF's fund size, NAMCO's response to the SCN contained following submissions:

- i. NAMCO had already initiated the process of increasing fund size, which is connected with its Right Issue;
- ii. NIF's unit holders in a meeting held on November 13, 2013 approved a time bound action plan in terms of Regulation 54(3c) of the NBFCs & NEs Regulations, 2008 in order to increase the fund size of NIF to meet the regulatory requirement. As per plan, the fund size had to increase to



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Specialized Companies Division

Rs.105 million as of February 28, 2014. The said time bound action plan is reproduced hereunder:

	<i>Rs. in Million</i>
Fund Size of NIF (as on October 2, 2013)	21.94
Increase in NIF's size till December 31, 2013	28.06
Increase in NIF's size till January 31, 2014	25.00
Increase in NIF's size till February 28, 2014	30.00
<hr/>	
Proposed Fund size of NIF as of February 28, 2014	105.00

- iii. NAMCO did not agree to the fact provided in the SCN that it had circumvented the applicable regulatory requirement in terms of increasing the fund size of NIF on temporary basis by arranging an investment of Rs.88.84 million during June 24-28, 2013 and subsequent redemption in the following week reducing the fund size again below Rs.100 million.

13. In terms of the above SCN and the response furnished by NAMCO, opportunities of being heard were provided through three hearings conducted in the matter as follows:

- i. First hearing in the matter was held on December 18, 2013. The Respondents were represented by their authorized representative, Syed Shahab Qutub who reiterated that NAMCO was undertaking its utmost efforts to meet the MER and increase the fund size up to the regulatory requirement. During the hearing Mr. Qutub informed that NAMCO's major sponsor i.e. FNEL was in the process of issuing its Right Shares, which was to be completed by January 31, 2014 and following which NAMCO's issuance of Right Share would commence, which is to be completed by February 28, 2014. He assured that NAMCO would meet the said equity requirement through issuance of Right Share within this timeline. At this point, Mr. Qutub was informed that NAMCO had already given multiple timelines in past for ensuring compliance, however, the same were not adhered to by NAMCO. Therefore, given the track record of non-compliances despite several commitments verbal and written, which are part of the record, it would be unlikely for



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Specialized Companies Division

NAMCO to ensure compliance within this new timeframe. However, Mr. Qutub was asked to provide a firm date in consultation with the Respondents in writing as per which the compliance of MER and minimum fund size could be achieved by NAMCO and in the case of failure appropriate enforcement action would be taken. Mr. Qutub however, assured on behalf of the respondents that MER would be met by the aforesaid timeline and also requested to hold the issuance of order until a firm timeline to be communicated to the Commission in writing. Mr. Qutub also assured that it would be once for all a definite timeline, failing which the Commission may proceed as per law. Subsequent to the hearing, as committed by the representative during the hearing, NAMCO vide its letter dated December 23, 2013 conveyed the plan/schedule for its Right Issue, process of which had to be completed by February 28, 2014 as illustrated below:

S.No	Activities/Steps	Date
1.	Dispatch of notice for Board meeting for approval of Right Issue	January 4, 2014
2.	Board meeting for approval of Right Issue	January 11, 2014
3.	Dispatch of Letter of Rights to physical and CDS shareholders	January 20, 2014
4.	Last date for acceptance and payment of shares in Physical/ CDS	February 14, 2014
5.	Allotment of shares and credit of book entry of shares in CDS	February 21, 2014
6.	Availability of physical share certificates for exchange original paid LOR	February 28, 2014

NAMCO also failed to fulfill the above plan/schedule for equity compliance.

- ii. Second hearing in the matter was held on March 21, 2014. Mr. Saleem Shahzada, director and Mr. Zaheer Ahmed Paracha, CEO designate attended the hearing in person. During the course of the hearing, Mr. Paracha stated that he was fully aware of the failures to meet the earlier timelines and even regretted that NAMCO was again unable to attain compliance in terms of the timeline of February 28, 2014. He informed about the details of steps being taken by him towards recovery of the



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Specialized Companies Division

entity and requested for a further extension until 14th July 2014 to meet the equity shortfall. Mr. Saleem Shahzada also expressed his firm commitment to bring the institutional investors to make strategic investment into NAMCO. He also gave assurance on behalf of the Board that NAMCO would be run in a better way. Mr. Paracha also submitted an action plan *inter alia* entailing a timeline for fulfillment of equity requirement. As per this plan/schedule transfer of sponsor money in separate designated account as share deposit money has to be done by July 14, 2014 while initiation of Right Share issue would also be carried out by July 14, 2014.

- iii. As regards to the fund size of NIF, Mr. Paracha submitted that the fund had shown a phenomenal growth and its size had grown from Rs.24.35 million as on December 31, 2013 to Rs.115 million as of March 18, 2014, which was higher than the regulatory requirement. He further stated that the increase in fund size also showed the new management's commitment towards NAMCO's revival. However, with regard to his claim for increasing the fund size of NIF, Mr. Paracha was shown with the details of inter funds movement of investments during this period obtained from the trustee. The details revealed that during February 20, 2014 to March 5, 2014 a total amount of Rs.120 million in four chunks from the portfolio of NBF was invested with M/s Apna Microfinance Bank (hereinafter referred to as "**AMB**") and AMB subsequently invested this amount with NIF increasing the fund size to above Rs.100 million, which was reflective of the fact that it was not in fact a genuine investment instead an indirect investment of NBF into NIF routed through AMB.
- iv. Mr. Paracha was clearly advised during the hearing that his request for gaining time period up till 14th July 2014 for MER compliance could not be acceded to, hence the NAMCO is required to meet the requisite equity shortfall in next 15 days, failing which necessary enforcement action as charged in the SCN, would be pursued. At this point, Mr. Saleem Shahzada assured that he would get back to the Commission in a next few days with some positive development in the matter; however, the same was not done as per his words.



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Specialized Companies Division

- v. Final hearing in the matter was held on April 7, 2014. The hearing was attended by the authorized representative of the respondents, Syed Shahab Qutub and Mr. Zaheer Ahmed Paracha. Mr. Qutub again informed that earlier timeline for equity compliance was not achieved due to failure on part of the sponsor i.e. FNEL to generate liquidity through issuance of its Right Share. Mr. Qutuab was made to recall that the Commission had been following the MER matter since April 2011 even prior to the occurrence of this violation. Extension after extension (as narrated per the preceding paras) was sought by NAMCO and continued assurances of its sponsors for meeting the equity requirement. He was also made to recall that during the first hearing he committed on behalf of the Respondents that issuance of Right share matter will be accomplished and compliance would be achieved by February 28, 2014, which was again not complied with instead they were requesting for a further extension until July 2014.
14. NOW THEREFORE, I have considered the submissions made by the Respondents in light of the relevant provisions of the Ordinance, NBFC Rules, 2003 and the NBFCs & NEs Regulations, 2008. I have also reviewed the record placed before me and heard the arguments given by them during the course of hearings and have come to the conclusion that:
- i) NAMCO has been operating below the minimum equity requirement since July 2011;
 - ii) NAMCO was earlier cautioned of the risk of facing equity shortfall from the MER to be effective from June 30, 2011 and was advised ahead of time to make necessary arrangements in order to avoid this shortfall. However, NAMCO assured that it enjoyed the commitments and support from its sponsors with regards to meeting the requisite equity;
 - iii) In view of NAMCO's persistent non-compliance, the management was again advised through the Commission's letters dated November 24, 2011, January 9, 2012 to report compliance, however, NAMCO again reiterated that the sponsors were fully aware of the situation and that the MER of Rs.130 million would be complied with by June 30, 2012;



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Specialized Companies Division

- iv) Given NAMCO's depleting equity position, the Commission again advised NAMCO vide letters dated March 6 and March 12, 2012 to make up the shortfall without any further delay, however, it was once again assured that in spite of the cash crunch, the equity shortfall would be met by June 30, 2012;
- v) On account of continuous assurance by the sponsors for complying with the said requirement, NAMCO was requested through the Commission's letter dated March 28, 2012 to furnish working plan as to how the requisite equity requirement would be materialized by June 30, 2012. Nonetheless, NAMCO came up with the same assertion that the necessary equity requirement would be achieved by June 30, 2012;
- vi) In view of NAMCO's persistent non-compliance with MER despite repeated pledges for resolving the issue, the management was yet again advised through letters dated September 20, 2012, November 30, 2012, December 14, 2012 and March 27, 2013 to provide workable time bound plan for injecting the requisite equity.
- vii) The management was also cautioned that their failure to ensure compliance with the necessary equity requirements may lead to cancellation of licenses for undertaking asset management and investment advisory services. However, NAMCO in its response informed that the equity requirement would be met through the issuance of Right Shares by June 30, 2013. This timeline also lapsed and NAMCO's commitment again remained unfulfilled.
- viii) NAMCO remained persistently non-compliant, in spite of numerous commitments and its Board of Directors was finally advised through the Commission's letter dated August 23, 2013 to ensure compliance with the aforesaid regulatory requirement by September 15, 2013 failing which may result in initiation of appropriate enforcement action in accordance with the applicable provisions of law. However, NAMCO yet again failed to ensure its compliance. Instead NAMCO through its response dated September 18, 2013 again assured that the Company was in the final stage of issuance of Right Shares to meet the MER.



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Specialized Companies Division

- ix) NIF was non-compliant with the minimum fund size requirement as stipulated under Regulation 54(3a) of the NBFCs & NEs Regulations, 2008 since July 31, 2012. NIF's fund size since July 2012 (on month end basis as depicted in the monthly Fund Manager Reports) is illustrated hereunder:

As on	Minimum Fund Size as per Regulation 54(3a) (Rs. In Million)	NIF's Fund Size (Rs. In Million)	Shortfall (Rs. In Million)
31 st Jul 2012	100	76.75	(23.25)
31 st Aug 2012	100	74.04	(25.96)
30 th Sep 2012	100	75.79	(24.21)
31 st Oct 2012	100	87.10	(12.90)
30 th Nov 2012	100	89.98	(10.02)
31 st Dec 2012	100	68.12	(31.88)
31 st Jan 2013	100	63.39	(36.61)
28 th Feb 2013	100	26.76	(73.24)
31 st Mar 2013	100	20.24	(79.76)
30 th Apr 2013	100	18.92	(81.08)
31 st May 2013	100	22.89	(77.11)
30 th Jun 2013	100	106.98	6.98
31 st Jul 2013	100	28.78	(71.22)
31 st Aug 2013	100	24.96	(75.04)
30 th Sep 2013	100	21.94	(78.06)
31 st Oct 2013	100	21.98	(78.02)
30 th Nov 2013	100	19.48	(80.52)
31 st Dec 2013	100	24.36	(75.64)
31 st Jan 2014	100	39.86	(60.14)
28 th Feb 2014	100	109.89	9.98
31 st Mar 2014	100	115.28	15.28

- x) NAMCO was earlier communicated vide the Commission's letter dated March 12, 2012 the risk of the fund's potential non-compliance of maintaining minimum fund size at all time, however, NAMCO apprised that the strategy was being formulated to increase the fund size of NIF to Rs.150 million by mid June 2012. Needless to say, the regulatory requirement was not achieved.



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Specialized Companies Division

- xi) NAMCO was once again advised through the Commission's letters dated September 20, 2012 and December 14, 2012 to increase the fund size up to Rs.100 million in compliance of the said Regulation. In response, NAMCO assured that the fund size of NIF would not be less than Rs.100 million from January 2013 onwards, however, NAMCO again failed to ensure compliance in the matter.
- xii) In view of NAMCO's request, the Commission, out of good faith granted another extension until June 30, 2013 to enhance the fund size of NIF to Rs.100 million meanwhile NAMCO was also advised that failure to comply within the extended timeline, the Commission would direct the trustee of NIF to revoke the Fund in terms of Regulation 54(3d) of the NBFs & NE Regulations, 2008. However, instead of making efforts to increase the fund size, NAMCO redeemed its own investment of Rs.53.55 million from NIF during the period from January 21, 2013 to March 13, 2013 and out of this redemption proceeds, an amount of Rs.31.45 million was extended to its major sponsor, FNEL under "advance and prepayments" for purchase of NBF shares. This seriously doubts NAMCO's claim to ensure compliance in terms of the required fund size. Also, appropriate disclosure of "advances and prepayments" were not provided in the NAMCO's annual accounts for the year ended June 30, 2013.
- xiii) Investments of Rs.88.84 million was made in NIF during the period June 24 to 28, 2013 while out of this investment an amount of Rs.81.32 million was redeemed by the investors during the period July 1 to 3, 2013, which shows that NAMCO circumvented the regulatory requirement by injecting funds in NIF purely on temporary basis just to show compliance on 30th June 2013, which was a mere eyewash to comply with the regulatory requirement, which again depicts disrespect of the regulatory framework and management's inability to raise fresh investments into NIF.
- xiv) Subsequent to issuance of SCN i.e. during the period from February 20, 2014 to March 5, 2014 a total amount of Rs.120 million in four chunks from the portfolio of NBF was invested in NIF through Apna Microfinance Bank enhancing the fund size of NIF to above Rs.100 million. This



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Specialized Companies Division

indicates that it was not a genuine investment attracted by NIF instead a cross investment between NAMCO's funds and AMB.

- xv) NAMCO's submission in response to the SCN dated November 1, 2013 that the said SCN was issued without any lawful authority and therefore, the same was liable to be withdrawn, in this regard, it may be noted that the Executive Director – ED (Specialized Companies Division) is fully competent to issue subject SCN, undertake hearings thereon, and issue Orders thereof. The ED is fully empowered to invoke and exercise the powers of the Commission conferred upon him mentioned under Sections 282(I), 282J(1), 282J(2), 282M of the Ordinance as per powers vested through Notification No.1061(I)/2005 regarding delegation of powers of Commission.
- xvi) NAMCO's assertion in response to the SCN that increase in equity to the current MER amount forming the basis for the SCN was not lawfully notified. As regards to NAMCO's above submission, it may be noted that the applicable MER prescribed in Schedule I read with Regulation 4 of the NBFCs & NEs Regulations, 2008 was notified vide Notification No. S.R.O. 764(I)/2009 dated September 2, 2009. Therefore, NAMCO's arguments have no legal standing and therefore, the same stands rejected.

15. In view of the record available and written and verbal submissions made by the Respondents through its authorized representative, the CEO designate and the director, it has been established beyond reasonable doubt that NAMCO knowingly and willfully continued to evade compliance of the MER. NAMCO has been operating below the MER since July 2011. NAMCO was earlier cautioned by the Commission in April 2011 regarding its potential equity shortfall and was advised to make up the arrangements to meet the upcoming MER. However, NAMCO's equity was short by Rs.27.83 million from MER as on June 30, 2011, while the equity shortfall further escalated to Rs.75.19 million on June 30, 2012 and Rs.86.91 on June 30, 2013 and Rs.99.62 million on March 31, 2014. During this period NAMCO was repeatedly advised through numerous communications to make up for the equity shortfall in terms of the NBFCs regulatory framework. In this connection, multiple extensions were also granted at several occasions by the Commission to ensure its compliance with



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Specialized Companies Division

the minimum equity requirement. However, NAMCO disregarded the timelines set for fulfillment of the regulatory requirement every time.

16. In respect of NIF, the fund continued to operate below the minimum fund size for over one and a half year despite repeated commitments and assurances by NAMCO for increasing its fund size. NIF's fund size increased on June 30, 2013, which was again reduced during July 1 to July 3, 2013, just to pretend the regulatory compliance. The NIF size was again increased in February- March 2014 by an indirect investment from NBF arranged through AMB, which does not form basis for the genuine investment and is considered eyewash.
17. NAMCO was licensed by the Commission to carry out their businesses of Asset Management Services in terms of NBFC Rules, 2003 and advised to comply with all the requirements of the NBFC regulatory framework. The repeated advices and numerous extensions were provided by the Commission but NAMCO chose to remain non-compliant, totally disregarding the applicable regulatory framework. In view of the foregoing, it is established that NAMCO has knowingly and willfully remained non-compliant to Rule 7(3) of the NBFC Rules 2003 and Regulation 4 of the NBFCs Regulations, for a time span of more than two and a half years. NAMCO also remained in contravention of Regulation 54(3a) of the NBFCs & NE Regulations 2008 and failed to increase the fund size of NIF up to the regulatory requirement for over one and a half year. This plainly negates all of NAMCO's commitments and assurances towards ensuring compliance. NAMCO made a number of commitments to raise its equity and to raise the NIF size and were given a number of opportunities to make up the shortfall but each time NAMCO failed to adhere to its firm commitment. Since NAMCO has failed to comply with the condition of its license of asset management services, hence, in exercise of the powers of the Commission under section 282J (2) of the Ordinance conferred upon me, I hereby suspend NAMCO's license to undertake *Asset Management Services* issued under Rule 5 of NBFC Rules, 2003 with immediate effect. However, NAMCO's other license to undertake *Investment Advisory Services* shall remain intact. Further, since the directors of NAMCO did not comply with the NBFCs aforesaid Rule and the regulations and continued to operate without compliance to the minimum required equity and minimum required fund size of NIF, I hereby impose penalty of Rs.50,000 (Rupees fifty thousand only) on each of its current



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Specialized Companies Division

directors (i.e. Lt. Gen (Retd.) M. Hamid Khan, Mr. Saleem Shahzada, M. Imtiaz Bashir and Mr. M. Asim Mustafa) as well as on ex-directors namely Mr. Shafiq A. Khan and Hafiz Avais Ghani (since these violations pertained to the period of their directorship on NAMCO's Board).

18. Since, NAMCO does not hold a valid license to undertake *Asset Management Services*, therefore, in terms of Regulation 45(1) read with Regulation 41(n) of the NBFCs & NEs Regulations, 2008, I hereby direct the trustee of both NBF and NIF i.e. MCB FSL to take both the collective investment schemes i.e. NBF and NIF under its effective control on immediate basis and arrange to transfer their management rights to another *Asset Management Company*, which best serves the interest of the unit/certificate holders.
19. The matter is disposed of in the above manner and the directors are directed to deposit the penalty amount in the account of the Commission maintained in the designated branches of MCB Bank Limited not later than thirty (30) days from the date of this Order and furnish the copy of the deposit challan to the undersigned.
20. This Order is issued without prejudice to any action, which may be taken or warranted for the above said defaults under any other provision of the law.

(Shahid Nasim)
Executive Director

Announced on May 30, 2014
Karachi.