



Securities & Exchange Commission of Pakistan
Specialized Companies Division

No. SC/NBFC-1/IIBL/2010/

**ORDER UNDER SUB-SECTION (2) READ WITH SUB-SECTION (3)
OF SECTION 282 J OF THE COMPANIES ORDINANCE, 1984**

In The Matter Of

INNOVATIVE INVESTMENT BANK LIMITED

1. This order shall dispose of the proceedings initiated by this office through the Show Cause Notice No: SC/NBFC-1/ IIBL/2010 dated August 27, 2010 (the “**Show Cause Notice**” or “**SCN**”) against Innovative Investment Bank Limited (“**IIBL**”) under sub-section (2) read with sub-section (3) of section 282 J of the Companies Ordinance, 1984. (“**Ordinance**”).

2. IIBL, a Non- Banking Finance Company (“**NBFC**”) formerly known as Innovative Housing Finance Limited (“**IHFL**”), having its registered office at H.M House, 7 Bank Square Lahore, was incorporated on March 29, 2007 as a public limited company under the Ordinance. IHFL was renamed as IIBL on February 7, 2008 and is licensed by the Securities & Exchange Commission of Pakistan (the “**Commission**”) to undertake the business of leasing, investment finance services and housing finance services.

3. The facts leading to this Order are as follows:

(A) In 2005, the Commission initiated an on-site inspection into the affairs of Crescent Standard Investment Bank Limited (“**CSIBL**”) which revealed gross financial irregularities and violations of the regulatory framework. In view of the

inspection findings, the Commission superseded the Chief Executive and Board of Directors (“BOD”) of CSIBL and appointed an Administrator on August 29, 2006. The mandate of the Administrator was to preserve the assets of CSIBL and to safeguard the interests of all the stakeholders and depositors. The Administrator adopted the strategy to identify parties/ groups to acquire and restructure CSIBL for its revival so that the depositors may get repaid appropriately. Four parties including Innovative Global Business Group (“IGB Group”) carried out initial due diligence for acquisition and revival of the CSIBL. However, only IGB Group submitted a Revival Plan for the acquisition, restructuring and revival of CSIBL.

Salient features of the Revival Plan presented by IGB Group were as follows:

- (i) Revival of CSIBL by way of its merger with and into an NBFC to be formed by IGB Group as its wholly owned subsidiary under the name and style of IHFL.
- (ii) Injection of funds amounting to Rs. 1,500 million as equity i.e. Rs. 100 million as equity in IHFL, Rs. 700 million into the merged entity subject to the approval of merger by the Commission and a further injection of funds amounting to Rs. 200 million in 2008 and Rs. 500 million in 2009 in to the merged entity.
- (iii) The depositors/ lenders of CSIBL were to be repaid by IHFL i.e. the surviving entity in a manner and on the terms/ conditions not less than the agreed and communicated through Revival Plan.
- (iv) The equity of the merged entity was projected to be Rs. 59 million by 2008 and Rs. 801 million by 2009. The merged entity was expected to generate cash inflow of more than Rs. 5,000 million in three years time i.e. from 2007 to 2009 through injection of funds by its Sponsors and undertaking

the business of leasing, investment finance services and housing finance services.

The Commission after the approval of the Scheme of Amalgamation by majority of all the stakeholders i.e. shareholders, depositors and creditors, sanctioned the Scheme of Amalgamation of CSIBL with and into IHFL under Section 282 L of the Ordinance vide its Order dated June 26, 2007 (“Amalgamation Order”) subject to certain terms and conditions which inter alia included:

- (i) IHFL shall ensure injection of Rs. 200 million and Rs. 500 million through right issues in the year 2008 and 2009, respectively in accordance with the Revival Plan submitted to the Commission.
- (ii) The depositors/ lenders of CSIBL shall be repaid by IHFL i.e. the surviving entity in a manner and on terms/ conditions not less than the agreed and communicated through Revival Plan.

Subsequent to the Amalgamation Order, the Commission granted licenses to undertake the business of leasing and investment finance services to IHFL in 2007 as well as the following relaxations from the Rules and Regulations till December 31, 2009 in order to facilitate IHFL to achieve the projections as set out in the Revival Plan and to ensure full payment to the depositors and creditors:

- (i) Exempted IHFL from maintaining the minimum regulatory equity requirements.
- (ii) Allowed IHFL to raise deposits from local and foreign institutions as a special case despite its ineligibility.

- (iii) Exempted IHFL from maintaining the mandatory 15% reserve requirement against deposits.
- (iv) Exempted IHFL from the regulatory prescribed maximum exposure limit to a single person.
- (v) Exempted IHFL from the prescribed maximum exposure limit against on-balance sheet liabilities and contingent liabilities in terms of Regulations.

Despite all these relaxations, the Sponsors, Chief Executive and BOD including the Chairman of IIBL failed to comply with the main conditions of the Amalgamation Order and did not carry out operations of IIBL in accordance with the Revival Plan as explained below:

- (i) No funds were injected by the Sponsors of IIBL in 2008 (Rs. 200 million) and 2009 (Rs. 500 million) in contravention of condition mentioned at clause 14 (c) of the Amalgamation Order issued under section 282 L of the Ordinance.
- (ii) IIBL failed to repay the first major principal installment of Rs. 750 million due to the depositors on July 29, 2009 in contravention of condition mentioned at clause 14 (d) of the Amalgamation Order issued under section 282 L of the Ordinance.
- (iii) Despite obtaining all the licenses and various relaxations from the regulatory framework, IIBL failed to carry out its operations in accordance with the Revival Plan.

Failure of the Sponsors, Chief Executive and BOD including the Chairman of IIBL to carry out the business as per the Revival Plan badly affected IIBL

operations and endangered its financial and commercial viability and ultimately led to the default in repayment of installment of Rs. 750 million to the depositors due on July 29, 2009 as per the repayment schedule given in the Revival Plan. It is worth mentioning here that one day before the payment of first major principal installment of Rs. 750 million due to the depositors i.e. July 28, 2009, IIBL filed a writ petition in the Honorable Lahore High Court with the motive of preempting any expected enforcement action from the Commission. The Honorable Court on the very next date i.e. July 29, 2009, restrained the Commission from taking any action against IIBL. The petition was disposed off on November 12, 2009 by the Honorable Court with the direction that if and when any representation is filed by IIBL, the same shall be decided expeditiously by the Commission strictly in accordance with law. Consequently, IIBL filed the representation in December 2009. The Commission after completing the due process of law including providing an opportunity of hearing to IIBL disposed of the representation on January 26, 2010.

(B) The Sponsors, Chief Executive and BOD of IIBL including the Chairman not only endangered the financial and commercial viability of IIBL but also committed serious irregularities which are summarized below:

- (i) In violation of section 199 of the Ordinance, IIBL failed to appoint its Chief Executive since May 6, 2009. The said section requires appointment of Chief Executive within 14 days from the date the office of Chief Executive falls vacant.
- (ii) The Sponsors of IIBL who hold 99% of the shareholding in IIBL failed to take any interest in managing the affairs of IIBL. The Sponsors of IIBL vide their letter dated June 28, 2007 committed that a member of the sponsoring family would be inducted as a member on the BOD of IIBL within one month of the date of the letter to represent the Sponsors on the BOD. Thereafter, IIBL was reminded on a number of occasions to induct a family member of the Sponsors on the BOD. The Commission on June 18,

2009 granted IIBL relaxation from the Listing Regulations of KSE and LSE subject to certain conditions which interalia included appointment of a family member of the Sponsors of IIBL on its BOD. Moreover, the Commission approved the appointment of certain directors on the BOD of IIBL subject to the conditions which interalia included appointment of one of the family members of the Sponsors of IIBL on the BOD of IIBL. Despite the written commitment of the sponsors of IIBL to appoint one of its family members on the BOD of IIBL and the repeated reminders of the Commission, they failed to show any interest in securing the proper management of IIBL to safeguard the interest of depositors and other stakeholders.

- (iii) Despite the fact that there was an adequate representation of the depositors and Sponsors on the board, no board meeting was held since August 2009. There was no cohesion between the members of BOD and they failed to devise any strategy or business plan to meet the overdue obligations towards depositors and creditors or to discuss any future course of action.
- (iv) Two Jumbo Share Certificates containing 79,996,500 shares in physical form in the name of the Sponsors were sent to IIBL on March 31, 2009 with the directions to demat the same and deposit them in a blocked CDC Account in compliance with the direction of the Commission dated March 6, 2009 and submit a compliance report to this effect. IIBL failed to deposit these shares in a blocked CDC Account and hence contravened the clear directions of the Commission.
- (v) As a result of the negligence of the then Chief Executive and the BOD of IIBL, a loss of approximately Rs. 1,400 million was caused to the depositors and other stakeholders of IIBL due to under value sale of an asset of IIBL commonly known as Caritas Town Land. Despite clear instructions from the Commission to proceed for recovery of land, the Sponsors and BOD including the Chairman of IIBL failed to initiate any

proceedings to recover the said land which was primarily purchased with the money raised from the depositors.

(C) In view of the failure of the Sponsors and BOD including the Chairman to comply with the conditions of Amalgamation Order, default in payment to the depositors as per Revival Plan, inability of the BOD including the Chairman to perform its functions and duties and the commission of serious irregularities and violations as stated at Para B (i)–(v) above, the Commission on January 27, 2010, in the best interest of the depositors, creditors and other stakeholders of IIBL, removed the Chairman and superseded BOD of IIBL under section 282 E and F of the Ordinance and appointed Mr. Khalid A. Sherwani to exercise all powers of the Chairman and BOD of IIBL with effect from January 28, 2010. Subsequently, the Chairman and members of the BOD of IIBL, after following the due process of law including providing an opportunity of hearing to them, were permanently removed from their respective positions vide Order dated March 15, 2010.

(D) Mr. Khalid Sherwani (hereinafter referred to as the “**Administrator**”) was mandated to manage the affairs of IIBL in the best interest of the stakeholders especially depositors. Moreover, the Administrator was entrusted with the task to rationalize IIBL’s operating costs, ensure proper maintenance of books of accounts, recover any asset of IIBL sold by the previous management through fraudulent means or without following the lawful procedure, make all reasonable efforts to preserve the value of its assets, ensure recovery of the outstanding balances from the borrowers and to restructure/ rehabilitate IIBL in the best interest of the depositors, creditors and other stakeholders.

Subsequent to his appointment, the Administrator submitted his interim report on the affairs and financial position of IIBL on March 6, 2010. As per the Administrator’s interim report, the financial position of IIBL was critical and it was not in the position to honor its commitments towards its depositors and creditors. The Administrator made the following recommendation in his report with regard to the future course of action:

Quote

“A massive reconstruction of the Company, in my opinion, is extremely necessary and should be undertaken on fast track basis. In order to proceed further in the matter, I strongly recommend that SECP urgently considers declaring the Company a sick entity under Section 282 (N) of the Companies Ordinance, 1984 so that the Administrator is appropriately authorized and capable of acting on the major reconstruction of the Company in an expeditious manner.” (emphasis added)

Unquote

Based on the recommendation of the Administrator, IIBL was declared as a sick entity by the Commission under section 282 N of the Ordinance on March 25, 2010.

The Administrator submitted his final report on the affairs and financial position of IIBL on August 09, 2010. As per the final report, the Administrator’s efforts to persuade any party for rehabilitation and revival of IIBL have not been successful as stated below:

- (i) Subsequent to the declaration of IIBL as a sick entity, the Administrator on April 03, 2010 published advertisements in the newspapers for inviting Expression of Interest (“EOI”) from parties interested in the rehabilitation/ revival of IIBL. However, the response was poor as the Administrator received EOI from only one party and even the said party, after conducting due diligence of IIBL, did not submit any viable revival plan and consequently this opportunity could not be materialized .
- (ii) In order to save the bank from liquidation, the Administrator based on the assumption that the various stakeholders could be persuaded to accept any revised structure of bank’s obligations towards them, prepared a preliminary plan for the consideration of the depositors who are the major

stakeholders of IIBL. The said plan was circulated to all the depositors and was also discussed with some major depositors. The responses from the depositors reflected a fairly clear point of view as only less than 3% of the depositors by value supported the plan and 23% of the depositors did not support the plan. However, 54% of depositors by value did not bother to respond. This proposed plan was therefore dropped by the Administrator as it was unacceptable to majority of the stakeholders.

- (iii) As a last resort, the Administrator approached a number of strong financial institutions to convince them to look into the possibility of acquiring and reviving IIBL. However, none of the institutions expressed any interest in the acquisition and revival of IIBL.

As per the Financial Statements of IIBL for the year ended December 31, 2009, audited by M/s Avais Hyder Liaquat Nauman, Chartered Accountants and annexed with the Administrator's final report, IIBL has not been considered as a going concern as given in Note 1 to the Financial Statements:

Quote

“The Company has not been able to meet its commitments with depositors due to non availability of requisite cash because parent company has not been able to inject the committed equity as per merger order and its operations were not able to generate sufficient cash flows during the last two years. Since the default with depositors in July 2009, the operations have been further curtailed to minimum level resulting in accumulated losses of Rs. 2.71 billion (2008: 1.8 billion). The Company is unable to meet equity requirements as per NBFCs Regulations 2008. Accordingly Company is not considered as a going concern” (emphasis added)

Unquote

The Financial Statements of IIBL have been prepared on a basis other than going concern i.e. all assets are stated at their realizable value and all liabilities are stated at an amount payable as given in Note 2.2 to the Financial Statement.

The financial position of IIBL is precarious. IIBL suffered a loss of Rs. 867 million for the year ended December 31, 2009 as compared to a loss of Rs. 25 million suffered in the year 2008. The accumulated losses of IIBL as on December 31, 2009 amount to Rs. 2,716 million as compared to Rs. 1,849 million as on December 31, 2008.

As per the Audited Financial Statements as of December 31, 2009, IIBL's total liabilities are Rs. 4,296 million against realizable value of assets of Rs. 2,405 million which results in a negative net worth of Rs. 1,891 million. The shortfall in realizable value of assets works out to be 44% of the liabilities and break-up value per share works out to be negative Rs. 22.40.

Further the Administrator has stated in his final report that various depositors and creditors have filed a total of 16 legal cases against IIBL in different courts of law for recovery of a total amount of Rs. 906 million. The cases are at different stages of litigation including two at auction stage. The real estate and other assets of IIBL have been attached by the various courts while some courts have issued maintenance of status quo orders, thereby severely restricting any hope for rehabilitation/ restructuring of IIBL.

The Administrator in view of the response received to his rehabilitation efforts, precarious financial position of IIBL and legal actions initiated by the various depositors and creditors has made the following concluding recommendation about the future course of action in respect of IIBL:

Quote

“Based on the contents of this report, the SECP may like to consider initiation of the necessary steps for liquidation of IIBL” **Unquote**

- (E) IIBL, apart from its precarious financial position and not considered as a going concern as per its Audited Financial Statements for the year ended December 31, 2009, is also in violation of the following provisions of the regulatory framework:
- (i) IIBL is in contravention of sub-section (1) of section 158 of the Ordinance as it failed to hold its Annual General Meeting for the financial year ended December 31, 2009 even within the extended period of time.
 - (ii) IIBL in contravention of condition mentioned at clause 14 (d) of the Amalgamation Order issued under section 282 L of the Ordinance, is in default of payment to its depositors since July 29, 2009. As of date, IIBL has an overdue payment of approximately Rs. 1,800 million towards its depositors.
 - (iii) IIBL is in contravention of Rule 7 (3) of the Non-Banking Finance Companies (Establishment and Regulation) Rules 2003 (“NBFC Rules”) read with Regulation 4 of the Non-Banking Finance Companies and Notified Entities Regulations, 2008 (“NBFC Regulations”) as its equity stands negative Rs. 1,891 million as on December 31, 2009 against the minimum prescribed equity requirement of Rs. 600 million.
 - (iv) IIBL’s aggregate liabilities of Rs 4,190 million (excluding contingent liabilities and security deposits) as on December 31, 2009 exceeds 10 times of its equity in contravention of Regulation 5 (1) of the NBFC Regulations as IIBL’s equity stands negative Rs. 1,891 million on the said date.
 - (v) IIBL in contravention of Regulation 14 (4) (i) of the NBFC Regulations has failed to maintain the prescribed 15% Reserve against deposits.

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(F) In view of the foregoing, IIBL was issued SCN dated August 27, 2010 in terms of the provisions of section 282 J (2) and (3) of the Ordinance to give an opportunity to show cause in writing and explain as to why the licences of IIBL to carry out the business of leasing, investment finance services and housing finance services may not be cancelled and why a petition for winding up of IIBL may not be presented before the Honourable High Court by the Commission. In addition, the Administrator was also offered an opportunity to appear for hearing before the undersigned personally or through an authorized representative.

4. In response to the SCN, the Administrator of IIBL has made the following submission vide his letter dated September 6, 2010:

Quote

- (i) *“In view of the circumstances prevalent at the time of appointment of the undersigned as Administrator of IIBL as also reiterated in paragraph numbered 1, 2, & 3 of the Show Cause Notice under reference, the contents of the Report on IIBL dated August 9, 2010 submitted by the undersigned to SECP and absence of any viable restructuring/ rehabilitation plan from the depositors and/ or any other stakeholder of IIBL to date, liquidation of IIBL seems unavoidable.*
- (ii) *We have nothing to say in defense of the various contraventions of the regulatory requirements specified in the Show Cause Notice as these all are factual and already a matter of record. However, with respect to paragraph 5(i), we would like to bring on record that after declaration of IIBL as a sick entity under section 282 N and finalization of the Annual Accounts 2009 on other than a going concern basis, holding of the stipulated Annual General Meeting within the stipulated period of May 30, 2010 was not practically possible and also would have been counterproductive.*
- (iii) *I would not like to avail the opportunity of appearance in person or through an authorized representative on September 7, 2010.”* **Un-Quote**

5. IIBL presently holds three expired licenses to undertake the business of leasing, investment finance services and housing finance services. Out of the said expired licenses held IIBL, the license to undertake housing finance services expired on April 18, 2009 whereas licenses for undertaking the business of leasing and investment finance services expired on June 28, 2009. IIBL submitted applications for renewal of all the said three license, however it failed to submit the documentary evidence for injection of requisite funds to enable the Commission to consider the processing of the said applications. Therefore, all the three applications were not processed and hence, the licenses of IIBL were not renewed after their expiry on April 18, 2009 (housing finance services) and June 28, 2009 (investment finance services and leasing), respectively.

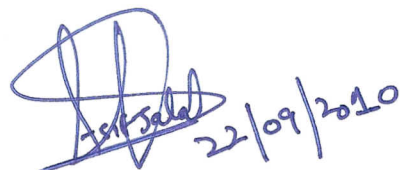
6. This forum has considered the submissions made by the Administrator which are not contrary to the observations contained in the SCN as well as the commercial & financial non-viability of IIBL as evident from negative net worth of Rs. 1,891 million as of December 31, 2009, default in payment of approximately Rs. 1,800 million to the depositors since July 29, 2009, continuously increasing deficit between the realizable value of assets and liabilities as accumulated losses increased by Rs. 867 million for the year ended December 31, 2009, preparation of financial statements on a basis other than Going Concern, non-compliance to the conditions of the Amalgamation Order, contraventions of the various provisions of the Ordinance, NBFC Rules, NBFC Regulations and the Directions of the Commission, pending recovery suits against IIBL, declaration of IIBL as a sick entity, fruitless rehabilitation efforts, absence of any viable restructuring/ rehabilitation plan from the depositors or any other stakeholder and the specific recommendation for liquidation by the Administrator. In view of these considerations and the facts as stated in the preceding paragraphs, in exercise of the powers of the Commission under sub-section (2) of section 282 J of the Ordinance conferred upon the undersigned, all the three licenses issued to IIBL to undertake the business of leasing, investment finance services and housing finance services are hereby cancelled with immediate effect.

7. As a result of the cancellation of all the three licenses held by IIBL, sub-section (3) of section 282 J of the Ordinance sanctions that the operations of IIBL shall cease and

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this office may move the Honourable High Court for winding-up of IIBL. The winding-up of IIBL is imperative to ensure the distribution of available assets of IIBL among its depositors and creditors at the earliest as the deficit between the realizable value of assets and liabilities is increasing with every passing day. Therefore, without prejudice to anything contained in section 305 and clause (c) of section 309 of the Ordinance, necessary action is being initiated by this office to move the Honourable High Court for winding-up of IIBL.

8. This order is being passed without prejudice to any action that may be taken or warranted in respect of contraventions of any other provision of law.



(Asif Jalal Bhatti)
Executive Director

Announced:
September 22, 2010

M. Asif Jalal Bhatti
Executive Director (SCD)
Securities and Exchange
Commission of Pakistan
Islamabad