No.SCD-SD(Enf)/TRG/2011/178 .

Before Shahid Nasim, Executive Director (SCD Supervision department)

In the matter of

M/S. TRG PAKISTAN LIMITED

Under Section 158(4) of the Companies Ordinance 1984 ("the Ordinance") read with Section 476 of the Ordinance; and Rule 7(1)(db) of Non Banking Finance Companies (Establishment and Regulation) Rules, 2003 ("the NBFC Rules") read with Section 282J(1) and Section 282M(1) of the Ordinance

Number and date of show cause notice:	***No.*** SCD-SD(Enf)/TRG/2011/136 ***dated*** May 02, 2011
Date of final hearing:	July 07, 2011
Present:	Mr. Mohammadullah Khan Khaishgi (Director), on behalf of Chief Executive Officer and all directors of TRG Pakistan Limited

ORDER

This order shall dispose of the proceedings initiated through Show Cause Notice (SCN) No. SCD-SD(Enf)/TRG/2011/136, dated May 02, 2011 against the Chief Executive and directors of TRG Pakistan Limited (the "Company"/ "TRG") under the provisions of Section 158(1) and Section 233(1) of the Companies Ordinance, 1984 and Rule 7(1)(db) of Non Banking Finance Companies (Establishment and Regulation) Rules, 2003.

2. The facts leading up to this order are briefly stated as follows:

i) The Company failed to hold the Annual General Meeting ("AGM") for the year ended June 30, 2010 within the period stipulated in the Ordinance (four months following the close of its financial year). The Company was required to hold its AGM for the year ended June 30, 2010 latest by October 31, 2010. The time for holding AGM was extended by the Commission up to November 30, 2010 in terms of Section 158 and 233 of the Ordinance upon company's request. However, the Company failed to hold its AGM within the extended time (November 30, 2010), thus contravening Section 158(1) of the Ordinance. The Company held the AGM for year ended June 30, 2010 on January 20, 2011. Furthermore, the directors failed to lay before the Company in AGM a balance-sheet and profit and loss account for the year ended June 30, 2010 within the period stipulated by the provisions of Section 233 of the Ordinance. Moreover, the Company failed to furnish a copy of the annual report of the Company together with copies of the balance sheet, income statement, cash flow statement and statement of changes in equity along with the auditors' report to the Commission within the stipulated time, which is contravention of clause (db) of sub-rule (1) of Rule 7 of NBFC Rules. Consequently, a show cause notice was served upon the Chief Executive, and directors of the Company to explain their position in writing as to why penalty as provided under Section 158 and Section 233 read with Section 476 of the Ordinance and Rule 7(1)(db) of NBFC Rules 2003 read with Section 282J(1) and Section 282M(1) of the Ordinance may not be imposed on them. A period of 15 days was given to respond to the aforesaid notice.

ii) The show cause notice was responded to by Mr. Syed Muhammad Talib Raza, Company Secretary of TRG ("Company Secretary"), through letter dated May 19, 2011, whereby the Company Secretary requested that the directors may be allowed further time up to May 27, 2011 for submitting response to the SCN and requested that delay in submitting the response may be condoned. Subsequently, the response to SCN was submitted by the Company Secretary, through letter dated May 27, 2011 in which it was submitted that the Commission had granted the company, extension to hold its AGM by November 30, 2010. It was claimed by the company secretary that the extension was granted '*in recognition of the complexity of the world-wide audit covering several jurisdictions and international subsidiaries. The audit of sole direct subsidiary, TRG International had not been completed constraining the ability of AF Fergusons & Co. to complete the audit of TRG Pakistan Limited*'. It was further contended in the said letter that, '*the delay arose due to the overall complexity of the group structure and reliance on overseas auditors. TRG has historically experienced delays in this regard and has undertaken a number of initiatives to compress timelines.*'

3. Hearing in the matter was initially fixed for June 21, 2011 which was adjourned at the request of the Company Secretary, submitted vide his letter dated June 17, 2011. The hearing was then held on the rescheduled date (July 07, 2011) wherein Mr. Mohammadullah Khan Khaishgi, Director of TRG (herein after referred as "authorized representative") appeared on behalf of himself and as an authorized representative of the Chief Executive and directors of the company and reiterated the same arguments as were submitted earlier through the written response. In addition, the authorized representative stated that while the directors accept full responsibility for the contravention of the law, at the same time the company had taken a number of steps to minimize the delay in completion of the process of audit and to ensure that accounts of the company are completed and the AGM is held within the stipulated time in the future. He further stated that the delay in completion of audit and holding of AGM has been narrowed down from those of previous years. In this regard, the authorized representative also expressed his desire to submit in writing the details of steps taken by the company to improve the audit process and reduce the timelines. The excerpts from the contents of the letter dated July 13, 2011 (submitted subsequent to hearing) are given below:

The company and the directors undertook a detailed review of the situation in prior years and has taken the following steps:

a) The Company has moved the audit relationship for TRG International to the Pakistan office of its auditors. In prior years, TRG International has been audited by the US offices of the company's *auditors, which has led to significant inefficiencies with the Company's US-based auditors attempting to coordinate and work remotely with a Pakistan based finance team. As a result, the Group audit is now handled by a set of Pakistan-based auditors with support provided by the auditors' international offices – a development that we expect to significantly enhance efficiency in audit completion and minimize delays.*

b) *In order to achieve the above, TRG International has appointed KPMG Taseer Hadi & Co (the Pakistan offices of KPMG International) as its new auditors. The Company and its subsidiaries now have a global engagement with KPMG, with the Pakistan office taking the lead not just for TRG Pakistan but also for TRG International.*

c) *In order to ensure a successful execution of the Pakistan-centered global audit, the Company has selected and hired a Pakistan-based Chief Financial Officer who will also serve the additional role of the Group head of finance. The appointment of a Pakistan based CFO (replacing the role that was previously served out of the Company's Washington DC offices) will allow the Company to work in a far more effective manner towards the timely completion of the audit.*

d) *The Company is confident of achieving a timely completion of its audit and AGM responsibilities for this year and the Directors would request the Commission to take into consideration the above steps and excuse the Directors for the delays associated with the late holding of the 2010 AGM.*

4. I have considered the written submissions and the arguments made by the authorized representative. Accordingly, I am of the view that the reasons put forth by the authorized representative do not carry merit and do not justify the default. It is the responsibility of the Directors of the Company to timely hold AGM for providing timely information to its shareholders in order to enable them to consider and approve the significant matters like approval of accounts, appointment of auditors, election of directors, performance of the company and other important issues relating to the Company. The past record of the Company reveals that the management had committed such default in the past as well. The steps being undertaken by the Company now, though having potential to reduce inefficiencies, should have been initiated earlier when fines were imposed on the directors vide Commission's Order dated September 10, 2009; and the directors were also warned against repetition of the same failure in the forthcoming year. As regards the Company's contention that the extension was granted in recognition of the complexity of the world-wide audit covering several jurisdictions and international subsidiaries, it is important to mention here that the Company was unable to meet even the extended timeline, i.e. of November 30, 2010, for holding AGM for the year ended June 30, 2010.

I have also given consideration to the fact that the directors of the company have admitted their failure to fulfill the responsibility entrusted to them in the Ordinance with respect to presenting the financial statements of the company and holding the AGM for the approval of financial statements within the stipulated time. In addition, I have also noted that the directors were also penalized on similar defaults in the past and the delay in holding AGM (which was 135 days in 2008-09) has been reduced to 50 in the year 2010. Moreover, the company has taken certain steps for elimination of this delay and the company is confident that these steps (enumerated above) will reduce inefficiencies in the group audit and facilitate completion of accounts and holding of AGM on time in the future. However, I am of the view that, since the company and directors have been penalized on similar non-compliances in the past, the Company and its directors needed to take all the steps necessary to eliminate inefficiencies in the systems that prevented the Company from presenting the financial statements and holding AGM on time. The steps being taken by the company to minimize inefficiencies should have been taken immediately after the directors and company were fined and warned against failure to hold AGM/ present accounts within the stipulated time period vide Order dated September 10, 2009.

5. Taking into consideration the facts and circumstances of the case as enumerated above, in exercise of powers conferred upon the undersigned in terms of Section 158(4) read with Section 476 of the Ordinance, I hereby impose a fine of Rs.50,000/- on the CEO and every director of the Company and further fine of Rs.2,000/- for every day after the first during which the default continued (50 days), on the CEO and every director of the Company. It may be noted here that lenient view has been taken in imposition of fine for this contravention, considering the actions taken by the Company to avoid such delays in future and the fact that the duration of default (number of days) has reduced compared with some of the prior years. However, the CEO and directors are strictly warned against repetition of the same default in future.

6. As regards the Company's failure to furnish a copy of the annual report and other financial statements of the Company to the Commission within the prescribed time limit as required under Rule 7(1)(db) of NBFC Rules, the arguments of the authorized representative were the same as mentioned at point (3) above. The arguments of the authorized representative have been considered, however, the explanations furnished do not prove that the failure or contravention or default in complying with Rule 7(1)(db) of NBFC Rules took place or was committed without the directors' knowledge, or that the directors exercised all diligence to prevent its commission with reference to the contravention of Rule 7 (1) (db) of the NBFC Rules, as required by Proviso to Section 282 J (1) of the Ordinance. Therefore, the CEO and directors are deemed guilty of the offence.

7. Accordingly, in exercise of powers of the Commission under Section 282J(1) of the Ordinance, I hereby impose a fine of Rs.100,000/- on the Company, the CEO and every director of the Company for contravention of Rule 7(1)(db) of the NBFC Rules. It may be noted that a lenient view has been taken in imposition of the fine for this contravention, considering the efforts being undertaken by the Company to streamline its audit procedures and reduce inefficiencies to avoid similar delays in future. However, the CEO and directors are strictly warned against repetition of the same default in future.

Total amount of fine payable by the Company, CEO and every director is detailed below:

S. No.	**Name**	**Penalty for violation of Section 158 (1) (Rs.)**	**Penalty for violation of Rule 7 (1) (db) (Rs.)**
1	M/s. TRG Pakistan Limited	-	100,000
2	Mr. Muhammad Ziaullah Khan Chishti	150,000	100,000
3	Mr. Muhammad Ali Jameel	150,000	100,000
4	Mr. Rafiq Dossani	150,000	100,000
5	Mr. Mohammadullah Khan Khaishgi	150,000	100,000
6	Mr. John Leone	150,000	100,000
7	Mr. Patrick McGinnis	150,000	100,000

8	Mr. Peter H.R. Riepenhausen	150,000	100,000
9	Mr. Saleem Butt	150,000	100,000
10	Mr. Ameer S. Qureshi	150,000	100,000
11	Mr. Abu Chowdhary	150,000	100,000

8. The Chief Executive and Directors of the Company are hereby directed to deposit the aforesaid fines in the designated bank account maintained in the name of Securities and Exchange Commission of Pakistan with MCB Bank Limited or pay through a demand draft in the name of Securities and Exchange Commission of Pakistan within thirty days of the receipt of this Order and furnish receipted Challans to this office. It should also be noted that the above mentioned penalties on the Chief Executive and Directors are imposed in their personal capacity; therefore, they are required to pay the said amount from their personal resources.

Shahid Nasim
(Executive Director)

Announced: August 10, 2011
Karachi