

**APPENDIX 1**

**THE MODARABA LAW**

**REGISTERED NO. M-302  
L-7646**

**THE GAZETTE OF PAKISTAN**

Extra Ordinary  
Published by Authority

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**ISLAMABAD, THURSDAY, JUNE 26, 1980**

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**ACTS, ORDINANCES, PRESIDENT'S ORDERS AND  
REGULATIONS INCLUDING MARTIAL LAW ORDERS AND  
REGULATIONS**

GOVERNMENT OF PAKISTAN  
**MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS**  
**(Law Division)**

Islamabad, the 26th June 1980

No. F. 17(1)/80-Pub. - The following Ordinance made by the President on the 26th June 1980 are hereby published for general information:-

**ORDINANCE XXXI OF 1980**  
**AN**  
**ORDINANCE**

to provide for matters relating to registration of *Modaraba* companies and the floatation, management and regulation of *Modarabas*.

WHEREAS it is expedient to provide for matters relating to registration of *Modaraba* companies and the floatation, management and regulation of *Modarabas* and for matters connected therewith or ancillary thereto:

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action:

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July 1977, read with the Laws (Continuance in Force) Order, 1977 (C. M. L. A. Order No. I of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:

## PART I

### PRELIMINARY

1. Short title, extent and commencement:

- (1) This Ordinance shall be called the *Modaraba* Companies and *Modaraba* (Floatation and Control) Ordinance, 1980.
- (2) It extends to the whole of Pakistan.
- (3) It shall come into force at once.

2. **Definition**

(1) In this Ordinance, unless there is any thing repugnant in the subject or context, -

- (a) "*Modaraba*" means a business in which a person participates with his money and another with his efforts or skill or both his efforts and skill and shall include Unit Trusts and Mutual Funds by whatever name called;
- (b) "*Modaraba* Certificate" means a certificate of definite denomination issued to the subscriber of the *Modaraba* acknowledging receipt of money subscribed by him;
- (c) "*Modaraba* company" means a company engaged in the business of floating and managing *Modaraba*;

- (d) "*Modaraba* Fund" means a fund raised through floatation of *Modaraba*;
- (e) "prescribed" means prescribed by rules;
- (f) "Registrar" means the Registrar appointed under section 3;
- (g) "rules" means rules made under this Ordinance; and
- (h) "Tribunal"-means a Tribunal constituted under section 24.

(2) All terms and expressions used but not defined in this Ordinance shall have the same meaning as in Companies Act, 1913 (VII of 1913).

3. **Appointment of Registrar** - The Federal Government may, by notification in the Official Gazette, appoint a person to be the Registrar for the purpose of this Ordinance.

## PART II

### REGISTRATION OF *MODARABA* COMPANIES

4. **No company to operate without registration** - No *Modaraba* company shall operate without registration with the Registrar.

5. **Eligibility for registration:**

(1) A company shall be eligible for registration as a *Modaraba* company if it fulfills the following conditions, namely:

- (a) that it is registered under the Companies Act, 1913 (VII of 1913) or is a body corporate formed under any law in force and owned or controlled, whether directly or through a company or corporation, by the Federal Government or a Provincial Government;
- (b) that, being a company solely engaged in the floatation and management of *Modaraba*, it has a paid up capital of not less than two and a half million rupees;
- (c) that none of its directors, officers or employees has been convicted of fraud or breach of trust or of an offense involving moral turpitude:

- (d) that none of its directors, officers or employees has been adjudged an insolvent or has suspended payment or has compounded with his creditors:
- (e) that its promoters are, in the opinion of the Registrar, persons of means and integrity and have knowledge of matters which the company may have to deal with as a *Modaraba* company: and
- (f) that, being a company also engaged in business other than floatation and management of *Modaraba*, it has a paid up capital of such amount and of such nature as may be prescribed.

## 6. Application for registration

(1) A company which is eligible for registration as a *Modaraba* company may make an application for registration to the Registrar in such form and with such documents as he may be prescribed.

(2) The Registrar, if he is satisfied after such inquiry and after obtaining such further information as he may consider necessary that the applicant is eligible for registration and that it is in the public interest so to do, may grant registration to such company on such conditions as he may deem fit.

3) In particular and without prejudice to the generality of the powers conferred by sub-section (2), such conditions may include -

- (i) investments to be made;
- (ii) information to be made;
- (iii) business to be undertaken, and
- (iv) restriction on transfer of shares by promoters, sponsors or persons holding controlling interest.

## PART III

### PROVISIONS APPLICABLE TO *MODARABAS*

7. **Types of *Modaraba*** - (1) *Modaraba* may be of two descriptions -
- (i) Multipurpose *Modaraba* - That is to say *a Modaraba* having more than one specific purpose or objective.
  - (ii) Specific purpose *Modaraba* - That is to say *a Modaraba* having one specific purpose or objective.
- (2) *A Modaraba* may be either for a fixed period or for an indefinite period.
8. **Creation and maintenance of *Modaraba*** - (1) A *Modaraba* company registered under section 4 shall apply to the Registrar in such form
- and with such documents as may be prescribed for permission to float *Modaraba*.
- (2) An application for floatation of *Modaraba* shall be accompanied by a prospectus which shall contain, inter alia, the following information, namely -
- (i) the name and type of the *Modaraba*;
  - (ii) the conditions and amounts of the *Modaraba* to be floated and the division thereof into *Modaraba* Certificates of fixed amount;
  - (iii) the business scheme, prospectus and mode of distribution of profit;
  - (iv) the amount to be subscribed by the *Modaraba* company to the *Modaraba* in its own name supported by evidence about its ability to meet the commitment;
  - (v) the form of the *Modaraba* Certificate; and
  - (vi) such other matters as may be prescribed.
- (3) The application, the prospectus and the documents filed therewith shall be authenticated by all the directors of the company.

9. **Religious Board** - The Federal Government shall, for the purpose of this Ordinance, constitute a Religious Board which shall consist of such members and shall have such functions, terms and conditions as may be prescribed.

10. **Business of *Modaraba*** - No *Modaraba* shall be a business which is opposed to the injunctions of Islam and the Registrar shall not permit the floatation of a *Modaraba* unless the Religious Board has certified in writing that the *Modaraba* is not a business opposed to the injunctions of Islam.

11. **Authorization** - The Registrar may, after obtaining from the Religious Board a certificate to the effect mentioned in section 10 and on being satisfied that it is in the public interest so to do, grant a certificate in the prescribed form authorizing the floatation of *Modaraba* on such conditions as he may deem fit, including conditions as to the business to be undertaken, expenses relating to the management of the *Modaraba* Fund, preservation of assets and other matters relating to the mode of management and distribution of profits:

Provided that, before issuing the certificate of authorization, the Registrar may require the *Modaraba* company to make such modifications, additions or omissions in the prospectus as the Religious Board may have indicated or as he may deem fit.

**12. *Modaraba* to be a legal person**

(1) A *Modaraba* shall sue and be sued in its own name through the *Modaraba* company.

(2) The assets and liabilities of each *Modaraba* shall be separate and distinct from those of another *Modaraba* as also from those of the *Modaraba* company.

**13. Conditions applicable to *Modaraba***

(1) No allotment of *Modaraba* Certificates shall be made unless a prospectus approved by the Registrar has been issued and the minimum amount stated in the prospectus to be the amount which must be raised in order to provide for the business operations and expenses has been subscribed.

(2) All moneys received from the applicants for *Modaraba* Certificates for *a Modaraba* shall be deposited and kept in a separate account in a scheduled bank as defined in the State Bank of Pakistan Act, 1956 ( II of 1956) until they are refunded in accordance with the provisions of sub-section (3) or until it is certified by the Registrar that *Modaraba* Certificates have been allotted in an amount not less than the minimum amount referred to in sub-section (1).

(3) If the subscription referred to in sub-section (1) has not been received by the date specified in the prospectus, all moneys received from the applicants shall be refunded to them within fifteen days of the said date and the *Modaraba* company and the directors thereof shall be jointly and severally liable to repay the money which is not so refunded.

(4) The *Modaraba* company shall issue *Modaraba* Certificates within thirty days from the date of allotment.

(5) The *Modaraba* company shall maintain a register of holders of *Modaraba* Certificates in such form and in such manner as may be prescribed.

(6) The *Modaraba* company shall maintain separate bank account, funds, assets and liabilities of each *Modaraba*.

(7) No *Modaraba* shall be liable for the liabilities, or be entitled to benefit from the assets, *of any* other *Modaraba* or of the *Modaraba* company;

(8) A *Modaraba* Certificate shall be transferable in the manner provided for in the prospectus of the *Modaraba*.

**14. Preparation and circulation of annual accounts, reports, etc. -** (1) The *Modaraba* company shall, within six months from the close of the accounting year of the *Modaraba*, prepare and circulate to the holders of *Modaraba* certificates -

annual balance sheet and profit and loss account in such form and manner as may be prescribed;  
a report of the auditor on the balance sheet and profit and loss account;

(iii) a report by the *Modaraba* company on the state of affairs, activities and business prospects of the *Modaraba* and the amount of profits to be distributed to the certificate holders.

(2) In addition to the documents referred to in sub-section (1) the *Modaraba* company shall furnish to the Registrar and to the holders of the *Modaraba* Certificates such reports, accounts and information as may be prescribed or as the Registrar may, at any time by an order in writing, require.

(3) The *Modaraba* company shall submit five copies of the accounts, statements and reports referred to in sub-sections (1) and (2) to the Registrar simultaneously with the circulation of these documents to the holders of *Modaraba* Certificates.

15. Audit of accounts - (1) The accounts of a *Modaraba* shall be audited by an auditor who is a Chartered Accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961), appointed by the *Modaraba* company with the approval of the Registrar and such auditor shall have the same powers, duties and liabilities as an auditor of a company has under the Companies Act, 1913 (VII of 1913), and such other powers, duties and liabilities as are, or may be, provided in this Ordinance and the rules.

(2) In addition to other matters, the auditors shall also state in his report whether in his opinion the business conducted investments made and expenditure incurred by the *Modaraba* are in accordance with the objects, terms and conditions of the *Modaraba*.

16. **Prohibition of false statement, etc.** - No *Modaraba* company, director, officer, employee or agent or auditor thereof shall, in any document, prospectus, report, return, accounts, information or explanation required to be furnished in pursuance of this Ordinance or the rules or in any application made under this Ordinance or the rules, make any statement or give any information which he knows or has reasonable cause to believe to be false or incorrect or omit any material fact therefrom.

### **17. Conditions Applicable to *Modaraba* Company**

(1) No *Modaraba* company shall engage in any business which is of the same nature and competes with the business carried on by a *Modaraba* floated or controlled by it.



(2) No *Modaraba* company or any of its directors or *officers* or their relatives shall obtain loan, advance or credit from the funds of the *Modaraba* or on the security of the assets of the *Modaraba*.

Explanation - In this sub-section, "relative", in relation to a director or officer, means the spouse, brother or sister or any of the lineal ascendants or descendants of the director or officer.

(3) A *Modaraba* company shall subscribe in each *Modaraba* floated by it not less than ten per cent of the total amount of *Modaraba* Certificates offered for subscription.

18. **Remuneration of *Modaraba* company** - The remuneration of a *Modaraba* company in respect of a *Modaraba* floated by it shall be a fixed percentage of the net annual profits of the *Modaraba* and shall not exceed ten per cent of such net annual profits computed in the manner to be prescribed.

## 19. Cancellation of Registration

(1) Where the Registrar is of the opinion that a *Modaraba* company has contravened or has failed to comply with any provision of this Ordinance of the rules or with any direction made or given thereunder, he may, if he considers necessary in the public interest so to do, by order in writing -

- (a) cancel the registration of the *Modaraba* company; and
- (b) remove the *Modaraba* company from the management of the *Modaraba* floated by it.

Provided that no such order shall be made without giving the *Modaraba* company an opportunity of being heard.

(2) The *Modaraba* company removed from the management of a *Modaraba* under clause (b) of sub-section (1) shall not be entitled to or be paid any compensation or damages for loss or termination of office.

(3) A *Modaraba* company removed from the management of a *Modaraba* under clause (b) of sub-section (1) shall not be entitled to float any *Modaraba*.

(4) A *Modaraba* company aggrieved by an order of the Registrar under sub-section (1) may prefer an appeal to the Federal Government within thirty days of the date of the order.

(5) An appeal preferred under sub-section (4) shall be disposed of by the Federal Government after giving the appellant an opportunity of being heard.

20. **Appointment of Administrator - (1) If -**

- (a) the Registrar has reason to believe that a *Modaraba* company has been conducting the affairs of a *Modaraba* in a manner prejudicial to the interest of the *Modaraba* or the holders of *Modaraba* Certificate or in a fraudulent or unlawful manner or has committed a default in complying with the provisions of this Ordinance or the rules or with any direction made or given thereunder or any condition of the *Modaraba*;
- (b) the registration of a *Modaraba* company has been canceled: or
- (c) any other *Modaraba* under the management of the *Modaraba* company has been ordered to be wound up by the Tribunal.

The Registrar, after affording the *Modaraba* company an opportunity of being heard may, without prejudice to any other action under the law, by order in writing -

- (i) appoint an administrator to take over and manage the *Modaraba* in place of the *Modaraba* company for such period as the Registrar may specify: or
- (ii) require the *Modaraba* company to carry out such changes in the management and procedure as may be specified: or
- (iii) remove the *Modaraba* company and appoint another *Modaraba* company in its place to manage the *Modaraba*.

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I Added by Notification dated 27 July 1985 published in the Gazette of Pakistan, Extraordinary, Part-I (Act No. IV of 1985).

(2) The Registrar shall not make an order under sub-section (1) without the approval of the Federal Government.

## 21. Inquiries

(1) The Registrar may, on his own motion or an application made by the holders of *Modaraba* Certificates the value of which is not less than ten per cent of the total subscribed amount of the *Modaraba*, by an order in writing cause an inquiry to be made by a person appointed by him in this behalf into the affairs of a *Modaraba* company or the *Modaraba* or any business transaction thereof

(2) Where an inquiry under sub-section (1) has been ordered, every director, manager or other officer of the *Modaraba* company to which the inquiry relates and every other person who has had any dealing with such *Modaraba* company or director or officer shall furnish such information or document in his custody or power or within his knowledge relating to or having a bearing on the subject matter of the inquiry as the person conducting the inquiry may by notice in writing require.

(3) The person conducting an inquiry under sub-section (1) may for the purpose of such inquiry enter into any premises belonging to -or in occupation of the *Modaraba* company of the person to whom the inquiry relates and may call for, inspect and seize books of accounts and documents in possession of any such *Modaraba* company, director, manager or any other officer or employee thereof.

(4) The person holding an inquiry under sub-section (1) shall, for the purpose of such inquiry, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit in respect of the following matters, namely -

- (a) enforcing the attendance of a person and examining him on oath or affirmation.
- (b) compelling the discovery and production of documents: and
- (c) issuing commissions for the examination of witnesses.

(5) On receipt of the report of the person conducting the inquiry, the Registrar shall take such action as he may consider necessary on the basis of the report.

## WINDING UP

22. **Circumstances in which *Modaraba* may be wound up voluntarily - (1)** A *Modaraba* floated' for a fixed period or for a specific purpose shall be wound up by the *Modaraba* company itself on the expiry of the period fixed for the *Modaraba* or the accomplishment of the purpose of the *Modaraba*, as the case may be, provided the following conditions are fulfilled, namely

- (a) all the directors of the *Modaraba* company shall make a declaration verified by an affidavit to the effect that they have made a full inquiry about the affairs of the *Modaraba* and, having done so, have formed the opinion that the *Modaraba* will be able to discharge its liabilities, pay the amount subscribed by the holders of the *Modaraba* Certificates and all their other dues in full within a period of twelve months from the date of the expiry of the period fixed for the *Modaraba* or the accomplishment of the purpose of the *Modaraba*, as the case may be.
- (b) the declaration referred to in clause (a) shall be supported by a report of the auditor of the *Modaraba* on the affairs of the *Modaraba* and shall have no effect unless it is filed with and approved by the Registrar within ninety days of the date of expiry of the period fixed for the *Modaraba* or the accomplishment of the purpose of the *Modaraba*, as the case may be.

(2) Any person aggrieved by the decision of the Registrar under clause (b) of sub-section (1) may prefer an appeal to the Federal Government within thirty days of the day on which the decision is given.

<sup>2</sup>(3) An appeal preferred under sub-section (2) shall be disposed of by the Federal Government after giving the applicant an opportunity of being heard.

23. **Circumstances in which *Modaraba* may be wound up by the Tribunal**

(1) *A Modaraba* shall be wound up by the Tribunal on an application made by the Registrar if -

- (i) in the case of a *Modaraba* for a fixed period on the expiry of that period or, in the case of a *Modaraba* for a specific purpose on the accomplishment of its purpose, the declaration referred to in section 22 has not been filed with the Registrar within the period specified in that section;
- (ii) in the case of any *Modaraba*, the Registrar has declared that

the *Modaraba* is unable to discharge its liabilities:

- (a) the accumulated losses of the *Modaraba* exceed fifty per cent of the total amount subscribed by the holders of the
  - (b) *Modaraba* Certificates: or
  - (c) the business of the *Modaraba* is being or has been conducted for a fraudulent purpose or with intent to defraud the holders of the *Modaraba* Certificates, or its creditors or any other person:
- (iii) the Tribunal is of opinion that it is just and equitable that the *Modaraba* should be wound up.

(2) The Registrar may make an application to the Tribunal for the winding up of a *Modaraba* on receipt of an application under sub-section (1) of section 21 or of the report of an inquiry under that section relating to the *Modaraba*.

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<sup>2</sup> Added by Notification dated 27 July 1985 published in the Gazette of Pakistan, Extraordinary, Part-I (Act No. IV of 1985).

(3) No application shall be made by the Registrar under sub-section (1) or (2) without giving the *Modaraba* company an opportunity of being heard.

#### 24. Constitution of Tribunal

(1) The Federal Government may, by notification in the Official Gazette, constitute one or more Tribunals for the purpose of this Ordinance and where it constitutes more than one Tribunal, shall specify in the notification the area within which, or the class of cases in respect of which, each such Tribunal shall exercise jurisdiction under this Ordinance.

(2) A Tribunal shall consist of a person who is, or has been, or is qualified to be a judge of a High Court.

#### 25. Powers of a Tribunal

(1) A Tribunal shall:

- (a) in the exercise of its Civil Jurisdiction, have in respect of a claim filed by a holder of *Modaraba* Certificates against the *Modaraba* company or by a *Modaraba* company against any other party with whom it has entered into business transactions relating to *Modaraba* Fund, or in respect of an application by the Registrar for the winding up of a *Modaraba* company, all the powers vested in a civil court under the Code of Civil Procedure, 19808 (Act V of 1908):
- (b) in the exercise of its criminal jurisdiction, try the offenses permissible under this Ordinance and shall, for that purpose, have the same powers as are vested in the Court of a Sessions Judge under the Code of Criminal Procedure, 1898 (Act V of 1898):

Provided that a Tribunal shall not take cognizance of any offense punishable under this Ordinance except on a complaint in writing made by the Registrar or an officer authorized by him in writing, and

(c) exercise and perform such other powers and functions as are, or may be, conferred upon or assigned to it by or under this Ordinance.

(2) All proceedings before a Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860), and the Tribunal shall be deemed to be a court for the purposes of sections 480 of the Code of Criminal Procedure 1898 (Act V of 1898).

(3) No court other than the Tribunal shall have or exercise any jurisdiction with respect to any matter to which the jurisdiction of the Tribunal extends under this Ordinance.

## 26. Procedure of the Tribunal

(1) Matters before the Tribunal shall come up for regular hearing as expeditiously as possible and, except in extraordinary circumstances and on grounds to be recorded, the Tribunal shall hear the cases from day to day.

(2) In the exercise of its civil jurisdiction, the Tribunal shall, in all suits before it, including suits for recovery of money, follow the summary procedure provided for in Order XXXVII of the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908).

## 27. Powers of Tribunal on hearing application for winding up of *Modaraba*

(1) If, after hearing the application for winding up of a *Modaraba*, the Tribunal decides to wind up the same it shall appoint a liquidator in consultation with the Registrar and approve a general scheme of winding up.

(2) After a winding up order has been passed by the Tribunal, the *Modaraba* company shall forthwith hand over charge of the *Modaraba* to the liquidator and furnish him with such statements, records, information and other material as may be required by him.

(3) The liquidator shall conduct the winding up proceedings in the prescribed manner under the control and directions of the Tribunal.

(4) The winding up proceedings shall be completed within a period of one year from the date of appointment of the liquidator, unless the Tribunal, for special reasons to be recorded in writing, extends the period.

(5) During the winding up proceedings, the Tribunal may allow the administrator appointed by the Registrar under section 20, if any, to continue to function or may appoint an administrator to manage the *Modaraba* till the disposal of the proceedings.

## 28. Judgment and decree

(1) A Tribunal shall, after the case has been heard, pronounce judgment as early as practicable and on such judgment a decree shall follow forthwith.

(2) The Tribunal shall, on the application of the decree-holder, forthwith order execution of the decree:

Provided that, if the decree is for money, the recovery in execution thereof shall be made as arrears of land revenue.

29. **Finality of orders** - Subject to the provisions for appeal as provided in section 30, no court or other authority shall call or permit to be called in question any order, judgment or sentence of the Tribunal or the legality or propriety of any thing done or intended to be done by the Tribunal under this Ordinance.

## 30. Appeals

(1) Any person aggrieved by any order, judgment, decree or sentence of the Tribunal may, within thirty days of such order, judgment, decree or sentence, prefer an appeal to the High Court within whose jurisdiction the order, judgment, decree or sentence is passed :

Provided that no appeal shall lie from an interlocutory order which does not dispose of the entire case before the Tribunal.



(2) An appeal under sub-section (1) shall be heard by a Bench of two judges of the High Court and shall lie on any one of the following grounds, namely

- (a) the decision being contrary to law or to some usage having the force of law; or
- (b) the decision having failed to determine a material issue of law or usage having the force of law; or
- (c) a substantial error apparent in the procedure provided by or under this Ordinance, which may possibly have led to an error in the decision.

(3) An appeal may be preferred under this section from a decision made ex-parte.

### 31. **Punishment**

(1) Whoever contravenes the provisions of section 4, 10, 13, 14, 16 or 17, shall be punishable with imprisonment of either description for a term which may extend to three years and with fine which may extend to five hundred thousand rupees.

(2) Where the contravention referred to in sub-section (1) has caused loss to the *Modaraba* or any other person, a further fine to the extent of the loss shall be imposed.

### 32. **Penalty - If any person**

- (a) refuses or fails to furnish any document, return or information which is required to furnish by or under this Ordinance : or
- (b) refuses or fails to comply with any condition imposed or made by the Federal Government or direction made or given under this Ordinance or the rules : or
- (c) contravenes or otherwise fails to comply with any provision of this Ordinance or the rules other than those referred to in sub-section (1) of section 31.

The Registrar may, if he is satisfied, after giving the person an opportunity of being heard, that the refusal, failure or contravention was willful,

by order, direct that such personal shall pay to the Federal Government by way of penalty such sum not exceeding one hundred thousand rupees as may be specified in the order and, in the case of a continuing default, a further sum calculated at a rate not exceeding one thousand rupees for every day after the issue of such order during which the refusal, failure or contravention continues.

**33. Liability of director, manager or officer of a company**

(1) Where the person guilty of an offense referred to in sub-section (1) of section 31 or in section 32 is a company or other body corporate, every director, manager, or other officer responsible for the conduct of its affairs shall, unless he proves that the offense was committed without his knowledge, or that he exercised all diligence to prevent its commission, be deemed to be guilty of the offense.

(2) Any sum directed to be paid under section 32 shall be recoverable as an arrears of land revenue.

(3) No prosecution for an offense against this' Ordinance or the rules shall be instituted in respect of the same facts on which a penalty has been imposed under section 32.

**34. Powers of the Registrar in relation to certain Proceedings -** In any proceedings under section 32, the Registrar shall have the same powers as are vested in a court under the Code of Civil Procedure, 1980 (Act V of 1908), when trying a suit in respect of the following matters, namely

- (a) enforcing attendance of a person and examining him an oath or affirmation; and
- (b) compelling the discovery and production of documents.

**35. Application of fine -** The Tribunal imposing any fine under may direct that the whole or any part thereof shall be applied in or towards -

- (i) payment of costs of the proceedings;
- (ii) payment to an aggrieved party of compensation for any loss

- (iii) payment of compensation for any loss mentioned in sub-section (2) of section 31.

**36. Enforcement of provisions of the Ordinance, etc.**

(1) If a *Modaraba* company makes default in complying with any provisions of this Ordinance or a direction made or given under this Ordinance and fails to make good the default within thirty days of the service of a notice to the *Modaraba* company requiring it to do so, the Tribunal may, on an application made to the Tribunal by the Registrar, make an order directing the *Modaraba* company and any director or officer thereof to make good the default within such period as may be specified in the order.

(2) Nothing in this section shall be deemed to prejudice the operation of any provision of this Ordinance providing for the imposition of penalties on the *Modaraba* company or its directors and officers in respect of any such default as aforesaid.

37. **Exemption from tax** - The income of a *Modaraba* shall be exempt from tax under the Income Tax Ordinance, 1979 (XXXI of 1979), if not less than ninety per cent of its profits in a year is distributed to the holders of the *Modaraba* Certificates.

38. **Power of Federal Government to exempt, etc.** - The Federal Government may, by notification in the official Gazette, exempt from the requirements of sub-sections (1) and (3) of section 17 a company or a body corporate formed under any law and owned or controlled by the Federal Government or a Provincial Government, whether directly or through a company or corporation set up by such Government.

39. **Delegation of Powers** - The Registrar may, by notification in the official Gazette, delegate, subject to such limitations, restrictions or conditions, if any, as he may, from time to time specify, such of his powers and functions under this Ordinance as he may deem fit to any officer subordinate to him.

40. **Indemnity** - No suit, prosecution or other legal proceedings shall lie against the Federal Government or the Registrar or any other officer for any thing which is in good faith done or intended to be done under this Ordinance or any rules.

**41. Power to make rules**

- (1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purpose of this Ordinance.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may include
  - i. The duties and functions of the Registrar,
  - ii. Terms and conditions of a Tribunal
  - iii. Procedure relating to a Tribunal
  - iv. Composition, terms and conditions of the Religious Board
  - v. Procedure relating to the conditions of the religious board,
  - vi. Form, contents and other requirements of a prospectus,
  - vii. Issue and allotment of Modaraba Certificates,
  - viii. Maintenance of Modaraba accounts and funds,
  - ix. Form of balance sheet and profit and loss account,
  - x. Audit and auditor's certificate,
  - xi. Annual and periodical accounts and reports,
  - xii. Inspection of record and supply of copies of documents,
  - xiii. Matters relating to winding up,
  - xiv. Matters and procedures relating to inquiries,
  - xv. Charging and determination of fees payable under this Ordinance, and
  - xvi. Such other matters as are to be or may be prescribed.

42. **Act to override other laws** – The provisions of this Ordinance shall have effect notwithstanding any thing contained in the Companies Act, 1913 (VII of 1913), or any other law for the time being in force.

43. **Removal of difficulties**- if any difficulty arises in giving effect to any provision of this Ordinance, the Federal Government may make such order not inconsistent with the provision of this Ordinance, as may appear to it to be necessary for the purpose of removing the difficulty.

President  
Islamic Republic of Pakistan  
PCPPI – 866 C.L.A – 2.3.88-300

**SAMPLE PROSPECTUS OF A MODARABA COMPANY**

(This sample has been re-produced only to promote understanding of the listing procedures and requirements for the *Modaraba* Companies in Pakistan. To avoid presentation of information which was not related to this objective, some paragraphs have been omitted).

**FIRST DADABHOY MODARABA**

Managed by  
DADABHOY Modaraba Management (Private) Limited  
Incorporated in Pakistan, under  
**Companies Ordinance 1984 and Modaraba Companies and  
Modaraba (Floatation and Control) Ordinance, 1980.**

Underwritten by  
ICP, DADABHOY Investment Ltd. Bank of Khybar,  
Asset Investment Bank Ltd. and  
PAK Resources Insurance Company Ltd.

**11 AUTHORIZATION FOR THE ISSUE**

Authorization has been granted under the Modaraba Companies and Modarabas (Floatation and Control) Ordinance, 1980 for floatation of the provision of section 9 of the Modaraba Companies and Modarabas (Floatation and Control) Ordinance, 1980 has certified that the business proposed to be undertaken by the Modaraba is not opposed to the injunctions of Islam.

**1.2 CONSENT OF THE FEDERAL GOVERNMENT**

Consent of the Federal Government has been obtained to the issue of capital under the Capital Issues (continuance of Control) Act, 1947 by an order of which a complete copy is open to public inspection at the registered office of DADABHOY Modaraba Management (Private) Limited. It must be distinctly understood that in giving this consent the Federal Government does not take any responsibility for the financial

soundness of any scheme or for the correctness of any of the statements made or opinions expressed with regard to them. This also applies to the authorization granted by the Registrar *Modaraba* under section 11 of the *Modaraba* Companies and *Modarabas* (Floatation and Control) Ordinance, 1980.

### **1.3 APPROVAL OF STOCK EXCHANGE**

The Prospectus of the *Modaraba* has been approved by the Karachi Stock Exchange (Guarantee) Limited in accordance with the requirements under their ten days of the closure of subscription list as to what applications have been accepted or are successful and refund the money in case of the unaccepted or unsuccessful applications within ten days of the date of such decision.

### **1.4 FILING OF PROSPECTUS**

A copy of the Prospectus of FIRST DADABHOY MODARABA has been duly filed with the Register Modaraba Companies and Modaraba. Islamabad, as required by Rule 20(2) of the Modaraba Companies and Modaraba Islamabad, as required by Rule 20(2) of the Modaraba Companies and Modaraba Rules, 1981.

### **1.5 LISTING OF STOCK EXCHANGES**

Applications have been made to the Karachi Stock Exchange (Guarantee) Limited, for permission to deal in and for quotation of the First DADABHOY Modaraba Certificates. In accordance with the " Regulations for Trading in Provisionally Listed Companies" , of Karachi Stock Exchange (Guarantee) Limited, the Modaraba shall stand listed provisionally for trading and for quotations of its certificates on that exchange from the next day of balloting. If for any reason the application for official listing is not accepted by the Karachi Stock Exchange (Guarantee) Limited the Modaraba Company undertakes to publish immediately in the press a notice to that effect and thereafter refund without surcharge all the money received from applicants in pursuance.

## 1.6 REFUND OF MONEY TO UNSUCCESSFUL APPLICANTS

The *Modaraba* Company shall take a decision within ten days of the closure of subscription list as to what applications have been accepted or are successful and refund the money in case of the unaccepted or unsuccessful applications within ten days of the date of such decision.

## 1.7 OPENING AND CLOSING OF SUBSCRIPTION LIST THE SUBSCRIPTION LIST WILL INSHA ALLAH OPEN AT THE COMMENCEMENT OF BANKING HOURS ON SUNDAY, JULY 31, 1994 AND WILL CLOSE ON THE SAME DAY AT THE CLOSE OF BANKING HOURS

## 1.8 MINIMUM APPLICATION

Application must be for a minimum of 500 certificates or multiples thereof

Listing Regulations. While clearing the Prospectus the Stock Exchanges do not guarantee the correctness of the contents of the Prospectus nor the viability of the *Modaraba*.

## PART II

### MODARABA FUND AND RELATED MATTERS

#### 2.1 MODARABA FUND AND PRESENT ISSUE

	<u>Rupees</u>
Authorized <i>Modaraba</i> Fund	
10,000,000 certificates of Rs. 10 each fully paid in cash	100,000,000
	<hr/>
Subscribed and paid up <i>Modaraba</i> Fund	
1,000,000 certificates of Rs.10 each fully paid in cash by DADABHOY <i>Modaraba</i> Management (Private) Ltd.	10,000,000

Sponsors	
500,000 certificates of Rs. 10 each fully paid in cash by :	
Associating undertakings	2,500,000
Financial Institution - ICP	2,500,000
	<hr/>
	15,000,000

**Present Issue**

Now offered at par for subscription in cash in full on application to:

**General Public**

Resident Pakistanis	
2,362,500 certificates of Rs.10 each	23,625,000
Non-Resident Pakistanis	
787,500 certificates of Rs.10 each	7,875,000
<b>National Investment Trust Limited</b>	
350,000 certificates of Rs. 10 each	3,500,000
	<hr/>
	35,000,000
Paid-up fund of the <i>Modaraba</i> after the present issue	50,000,000
	<hr/>

The difference of Rs.50,000,000 between the authorized capital and paid-up capital will provide the *Modaraba* with an opportunity to increase the paid-up capital to meet future business requirements.

**2.2 MODARABA CERTIFICATES ALLOTMENT POLICY**

The basis of allotment of the *Modaraba* Certificates offered to General Public shall be as follows "

- i. If the *Modaraba* Certificates to be issued to the general public are sufficient for the purpose, all applications shall be accommodated initially for a minimum allotment of certificates of the face value of Rs.5000, If the certificates applied for by applicants are in excess of the certificates offered to them, the distribution shall be made by computer balloting in the presence of representatives of the Karachi Stock Exchange (Guarantee) limited.



- ii. Any certificate left unsubscribed after allotment as aforesaid, shall be allotted on a prorata basis to applicants who apply for certificates exceeding the face value of Rs. 5,000.
- in. If the *Modaraba* Certificates to be issued to the non-resident Pakistanis are sufficient for the purpose, all applications from the non-resident Pakistanis shall be accommodated initially for a minimum issuance of Rs.5,000. If the Certificates applied for by such applicants are in excess of the *nominal* value of the Certificates offered to them, the distribution shall be made by computer balloting.
- iv. *Modaraba* Certificates left unsubscribed after issuance being made in the manner given under (iii) above, shall be issued, on a prorata basis, to the non-resident Pakistanis, who applied for certificates exceeding the face value of Rs.5,000.
- v. Any Certificates left unsubscribed by non-resident Pakistan, after issuance in the manner given under (iii) and (iv) above, together with the quota reserved for the residents minus the amount of certificates subscribed by the National Investment Trust Limited shall be issued to the resident Pakistanis on the same basis as given under (iii) and (iv) above and vice versa for non-resident Pakistanis.
- vi. Any part of the *Modaraba* Certificates offered to the National Investment Trust Limited and not subscribed by them shall be offered to the general public at par.

### 2.3 FACILITIES AVAILABLE TO NON-RESIDENT PAKISTANIS

- i. On sale and transfer of the certificates repatriation of sale proceeds with the capital gains, if any, will be allowed provided that certificates are held for not less than one year.
- ii. Allottees shall have the option either to receive the dividend income in Pakistani currency or in US dollars, to be specified by them in the application forms.

- iii. Disinvestment proceeds and dividend will accrue in Pakistani currency and repatriation thereof will be allowed in accordance with the rules and the exchange rate prevailing on the date of remittance. This facility will be available only if the stay of the investor in Pakistan does not exceed six months.
- iv. It will be permissible for non-resident certificate holders to transfer their certificates to other Pakistani nationals ordinarily resident outside Pakistan.

## **2.4 ISSUE OF MODARABA CERTIFICATES**

*Modaraba* Certificates shall be issued within 30 days to the allottees, as required under the *Modaraba* Ordinance through the bankers to the issue.

## **2.5 TRANSFER OF CERTIFICATES**

In terms of the Companies Ordinance, 1984 and Rule 22 of the *Modaraba* Rules, 1981, there are no restrictions on the free transferability of *Modaraba* Certificates where a proper instrument of transfer, duly stamped and executed by the transferor and the transferee has been delivered to the share department of the *Modaraba* Company along with the relevant *Modaraba* Certificates. However, transfer into the names of foreign national will require prior permission of State Bank of Pakistan.

## **2.6 TRADING OF MODARABA CERTIFICATES ON STOCK EXCHANGE**

The *Modaraba* Certificates will be transacted on the Karachi Stock Exchanges and will be transferred without any restriction provided they are supported by an instrument of transfer.

## **2.7 PREFERENTIAL RIGHTS TO SUBSCRIBE**

It is a condition of the Consent Order of the Controller of Capital Issues that preferential rights be granted to the National Investment Trust Limited to subscribe for 350,000 certificates against full payment in cash at Rs.10 per certificate. This right may be exercised during the period the

subscription list is open for purpose of the present public offer of *Modaraba* Certificates. No consideration has been given or promised to the *Modaraba* Management Company for the grant of these preferential rights.

## **2.8 MINIMUM SUBSCRIPTION**

In the opinion of the directors of the *Modaraba* Company, the amount which must be raised as a minimum subscription in order to provide for the business operation and expenses is the whole amount of the *Modaraba's* present issue of Rs. 50.0 million of which Rs.15 million has already been subscribed in cash by the *Modaraba* Company, associated undertakings and financial institutions.

## **2.9 INTEREST OF CERTIFICATE HOLDERS**

The authorized *Modaraba* Fund is Rs.100,000,000 divided into 10,000,000 certificates of Rs.10 out of which 1,500,000 certificates of the aggregate face value of Rs.15,000,000 have been issued against cash fully paid-up certificates. None of the holders of the issued certificates of the Fund have any special or other interest in the property or profits of the Fund other than as holders of the certificate in the capital of the Funds, except Investment Corporation of Pakistan who are also the underwriters, therefore, they are interested to the extent of underwriting fee that may accrue to them as a result thereof.

## **2.10 FUTURE CAPITALIZATION**

The *Modaraba* Company may make right or bonus issue of certificates as it deems necessary for its business operations after obtaining necessary permission from Registrar *Modaraba*. Furthermore, the right issue shall be made after obtaining necessary permission from the Controller of Capital Issues, whereas bonus issues shall be made by following the provisions of the Capital Issues (Exemption) Order, 1967.

## **2.11 MODE OF DISTRIBUTION OF PROFITS**

Not less than 90% of the net income in respect of the *Modaraba's* business activities, after charging the management fee up to 10% and after

setting aside the mandatory reserve as per the State Bank of Pakistan prudential regulations is proposed to be distributed at least once every year to the certificate holders in proportion to the number of certificates held by them. Distribution will be in the form of cash dividend and or bonus certificates.

All the business operations including investments and raising of funds shall be carried out in accordance with the agreements and arrangements already approved or after obtaining approval of the Religious Board.

## 2.12 TAX EXEMPTIONS

According to the prevailing tax law, if *Modaraba* distributes 90% of its profits among the certificate holders after deducting mandatory reserve provisions as per State Bank of Pakistan's prudential regulations, the income of the *Modaraba* is exempt from tax for three years and subsequently will be subjected to a tax @12.5% in the fourth and fifth year and thereafter it will be subjected to tax @25%.

## 2.13 APPLICATION OF ZAKAT AND USHR ORDINANCE, 1980

Income distributed shall be subject to deduction of *Zakat* at source according to *Zakat and Ushr Ordinance, 1980* (XVIII of 1980).

## 2.14 WITHHOLDING TAX ON DIVIDENDS

Profit distribution to certificate holders shall be subject to withholding tax @10% under section 50(6A) of the Income Tax Ordinance, 1979 and interim of the provisions of section 80-D of the said ordinance such as deduction at source shall be deemed to be full and final liability in respect of such profit. Profit distribution to companies shall be taxable at inter-corporate tax rate for dividends specified in para-D of pars V of the first schedule of the said ordinance.

## PART III

### UNDERWRITING, FEES, BROKERAGE AND PRELIMINARY EXPENSES

#### 3.1 UNDERWRITING

The present issue of 3,500,000 *Modaraba* Certificates of Rs.10 each have been underwritten by:

	Rupees (Million)
a) Investment Corporation of Pakistan	7,500
b) DADABHOY Investment (Private) Ltd.	5,000
c) Bank of Khyber	5,000
d) Asset Investment Bank Ltd.	7,500
e) Pak Resources Insurance Company Ltd.	10,000
	<u>35,000</u>

If and to the extent that the certificates hereby offered to the general public shall not have been subscribed and paid for in cash in full by the closing date, the underwriters shall within 15 days of being dully called upon by the company to do so, subscribe or procure subscribers to subscribe and pay in cash in full, for such unsubscribed certificates.

In the opinion of the directors, the resources of the underwriters are sufficient to discharge their underwriting commitment.

THE UNDERWRITERS HAVE NOT ENTERED INTO ANY BUY BACK AGREEMENT WITH THE SPONSORS OR ANY OTHER PERSON.

#### 3.2. UNDERWRITING FEES

The underwriters shall be paid actual expenses incurred by them for undertaking the obligation of underwriting and the fee on the amount

underwritten in accordance with the underwriting agreement entered with them. But no fee shall be payable to the underwriters for mere underwriting the value of certificate/or the certificates actually taken up by them. Provided that the actual expenses and the fee payable shall not exceed 5% of the amount underwritten by them.

No underwriting fee shall be payable to the underwriters in respect of the certificates taken up by the National Investment Trust Limited by virtue of exercise of its option.

### 3.3 BROKERAGE

Brokerage shall be paid to the member of Karachi Stock Exchange (Guarantee) Limited at the rate of 1% of the value of *Modaraba* Certificates actually sold through them. No brokerage shall be payable in respect of certificates taken up by the underwriters and the National Investment Trust Limited through exercise of its option for present issue offered to them.

### 3.5 PRELIMINARY EXPENSES AND EXPENSES TO THE ISSUE

The estimated expenses of the present issue are as under:

	<u>Rupees</u>
i) Underwriting fees	427,500
ii) Brokerage to members of the Stock Exchange	315,000
iii) Fees to bankers to the issue	157,500
iv) Other organizational and floatation expenses inclusive of cost of printing, publishing and distribution of the prospectus, constancy fees and listing fee etc.	<u>325000</u>
	<u>1,225,000</u>

These expenses are equal to 3.5% of the public issue and are payable by the *Modaraba* and shall be written off over five years.

## THE *MODARABA* MANAGEMENT COMPANY

### 4.1 INTRODUCTION TO THE MANAGERS OF THE FIRST DADABHOY *MODARABA*

DADABHOY *Modaraba* Management (Pvt) Limited was incorporated in the Province of Sindh on December 19, 1991 under the Companies Ordinance, 1984. It was registered as a *Modaraba* Management Company with the Registrar *Modaraba* Companies & *Modarabas*, Islamabad on December 14, 1992.

### 4.2 CAPITAL

The Authorized Capital of the DADABHOY *Modaraba* Management (Pvt) Limited is Rs.30,000,000 divided into 3,000,000 certificates of Rs.10/- each with a paid up capital of Rs.12,500,000.

### 4.3 PROMOTERS AND MANAGERS OF *MODARABA*

(Names deleted).

## PART V

### OBJECTS, BUSINESS AND PROSPECTS

#### 5.1 TYPE OF *MODARABA*

First DADABHOY *Modaraba* is a perpetual and for specific purpose trading *Modaraba* as described in the object clause hereunder.

#### 5.2 OBJECT OF THE *MODARABA*

The object of the *Modaraba* is specifically to carry on domestic and international trading activities as a trading house in the normal and prevalent mercantile practice which are not violative of the injunctions of Islam.

The *Modaraba* will specifically trade in the following commodities and products.

- a) Textile Products and Fiber
- b) Jute and Jute Products
- c) Chemical and Petrochemical Products
- d) Agricultural and Food Products
- e) Construction Materials and Capital Goods
- f) Leather and Leather Products
- g) Automobiles & Related Products
- h) Any other product, the trade of which is not prohibited by the injunctions of Shari 'ah, after obtaining prior approval of the Registrar, *Modaraba*. The trading of above commodities may include brokerage and advisory services.

5.2-A The *Modaraba* with a view to beneficially carrying out trading in the commodities and products given in Clause 5.2 may make investment for the purchase/acquisition of assets relatable to object clause for manufacture of and/or distribution and storage of the said commodities and products.

5.2-B The fund not exceeding 20% of paid-up fund of the *Modaraba* may be invested for a period of not more than one year in the following:

- a) Investment in shares, equity of companies carrying business not prohibited by *Shari 'ah* and non-interest bearing securities and certificates, and;
- b) *Musharaka* and *Modaraba* Modes of Islamic Economics in accordance with the instruments approved from time to time by the Religious Board.

### 5.3 CONCEPT OF TRADING TRANSACTIONS

The *Modaraba* shall abide by the following trading concepts:

- a) *Modaraba* shall not enter into any transaction or business dealing which is violative of the injunctions of Islam and shall not enter into any sale or purchase transaction which is violative of the injunctions of Islam and in all its dealings and transactions shall observe the principles of *Shari'ah*.



Without prejudice to the generality of sub-clause (I) , the *Modaraba* shall adhere to the following guidelines:

- b) *Modaraba* shall only transact sale of the products and commodities which it owns as principal or when acting as agent, the product/commodity is owned by its principal.
- c) The products/commodities sold or purchased should be in the physical or constructive possession of the seller who shall also bear the risk corresponding to the possession.
- d) The sale price on credit will be disclosed before an offer of sale.
- e) The contract of sale shall not be contingent.
- f) The delivery of goods or the payment of price shall not be contingent on an event which may or may not occur in future.

#### 5.4 MODE OF TRADING TRANSACTIONS

- a) The *Modaraba* shall sell its products and commodities on cash and credit basis.
- b) Documentation for cash sale will comprise of a simple invoice recording the sale transactions and a cash receipt to signify the receipt of payment.
- c) Documentation for credit sale will be through a credit sale contract as approved by the Religious Board.

#### 5.5 RESOURCE MOBILIZATION

It is planned to mobilize additional resources without the element of Riba using following modes:

- a) *Musharaka*
- b) *Morabaha*
- c) *Modaraba*

## 5.6 SAFEGUARDS

- a) The Directors of the *Modaraba* Management Company shall exercise strict vigilance over the business of the *Modaraba*. All decisions shall be made on sound business principles, based on the best available advice.  
Suitably qualified and experience key personnel will be engaged by the *Modaraba* Management Company for the *Modaraba*.
- c) Business and investment decisions shall also be based upon analysis of published accounts, comparable studies and scope of future prospects in the light of expansion programs and market trends.  
Separate bank accounts will be maintained by the *Modaraba* Management Company in respect of the *Modaraba*. The account will be operated jointly by two authorized officers/Directors of the *Modaraba* Management Company.
- e) Collection account for subscription towards the *Modaraba* Certificates will be operated jointly by two Authorized Officers/Directors of the *Modaraba* Company.
- f) Business transactions shall be conducted in accordance with the applicable laws and regulations in Pakistan and no transactions will be entered into which are in any manner in conflict with injunctions of Islam.
- g) The *Modaraba* shall not enter into any business transaction with any person, except in connection with the normal business of the *Modaraba*.
- h) The *Modaraba* shall not enter into any business or other transaction which is repugnant to the injunction of Islam or which involves the element of "Riba".
- i) The Share Certificates acquired out of the *Modaraba* Fund will be registered in the name of the *Modaraba* in the respective books of the companies issuing the shares.
- j) The element of interest shall not be involved, directly or indirectly, in the business of the *Modaraba*.
- k) All the *Modaraba* activities and transactions shall be in conformity with the rules and regulations issued by the Registrar of *Modaraba*, State Bank of Pakistan and/or any other competent authority from time to time.

- 1) In order to ensure adherence with *Shari 'ah* in all its dealings, the *Modaraba* shall utilize the services of a *Shari 'ah* Consultant as and when required, well versed in *Shari 'ah*, particularly relating to business and financial matters, through the *Modaraba* association.

#### **5.7 SPECIFIC SAFEGUARD PRESCRIBED BY THE STATE BANK OF PAKISTAN**

- a) The *Modaraba* shall maintain both for funded and non-funded financing in each case for the first two years of operation a ratio of equity to liabilities of not less than 1:7 and thereafter the ratio may be increased for each to 1:10.
- b) Not less than 20% of after tax profits of the *Modaraba* shall be credited to a reserve fund till such time the reserve fund equals the amount of Paid-up Fund of the *Modaraba*. Thereafter sum of not less 5% of the after tax profit of the *Modaraba* shall be credited to the reserve fund. Stock dividend shall be treated as an appropriation for this purpose.
- c) Not less than 15% of the *Modaraba* Liabilities excluding Paid-up Fund, borrowings from financial institutions and lease key money shall be invested in NIT Units or any other investments permitted by the Religious Board.
- d) Accounts will be obtained regularly from borrowers in accordance with the rules prescribed for non-banking financial institutions by the State Bank of Pakistan.
- e) While granting credit facilities, *Modaraba* shall ensure that the total long-term debt to equity ratio of the borrower does not exceed 60:40 as a rule and non-current liabilities of the borrower do not exceed its current assets.
- f) Total exposure of the *Modaraba* to a single borrower shall not exceed 20% of its equity. In case of listed companies exposure should not exceed 20% of the *Modaraba's* total assets.
- g) Minimum margins shall be obtained against facilities granted to borrowers in accordance with the percentages prescribed by the State Bank of Pakistan.

- h) *Modaraba* shall not provide any facility to their directors, Chief Executive and major shareholders including their spouses, parents and children or to firms and companies in which they are interested, as partners, directors or major shareholders. Major shareholder means any person holding more than 5% of the Paid-up Fund or Share Capital.
- i) No facilities will be allowed for speculative purposes.
- j) *Modaraba* shall not hold, deal or trade in real estate except that in use of the *Modaraba*.
- k) Provisions against non-performing facilities shall be made in accordance with the guidelines prescribed by the State Bank of Pakistan.  
The *Modaraba* shall have an internal audit department. The head of the department shall report directly to the Chief Executive Officer.

The above safeguards should be read in conjunction with NBFT's Circular No. 1 dated December 5, 1991 issued by the State Bank of Pakistan.

## 5.8 BUSINESS PROSPECTS

It is the declared policy of the government to give priority and encouragement to the private sector in the promotion and development of the economy. The Government has been taking necessary steps and measures from time to time. The current exchange and financial reforms are the part of Government steps to achieve the foregoing objectives. The current financial policy of increase debt to equity ratio, non-availability of bridge finance, credit selling, the privatization and deregulation program offer exceptional business opportunity in the money and the capital market as well as the project financing operation. There is scope for finance and advisory services to over, operational (Pvt.) Limited companies to take advantage of growth potential by public participation.

## 5.9 RISK FACTORS

The *Modaraba* will carry on the trading activities and therefore the management wishes to point out the following risk elements involved in the trading activity. These factors relate to :

- a) Market situation prevailing in the country and more particularly in the area of activity.
- b) General economic conditions.
- c) Government taxation, fiscal and industrial policies.
- d) Local and international market competition.

The managers of the *Modaraba* will, however, make their best efforts in order to lessen the effects of the above factors on the business of the *Modaraba*.

#### 5.10 VIABILITY

Experience and expertise of the DADABHOY *Modaraba* Management (Private) Limited in the field of industry, commerce and trade will be at the back of the all the activities and operations of the *Modaraba*. The promoter's multifarious activities cover a wide range of items of trade and commerce. The promoters of DADABHOY *Modaraba* Management (Private) Limited are, therefore, confident that the First DADABHOY *Modaraba* being floated by them will meet with great success.

#### 5.11 COMMENCEMENT OF BUSINESS OF THE *MODARABA*

Full-fledged business of the *Modaraba*, will be started INSA ALLAH after the present issue and completion of necessary formalities.

#### 5.12 CONDITIONS IMPOSED BY THE CONTROLLER OF CAPITAL ISSUES

- a) The Management Company and FIRST DADABHOY *MODARABA* shall neither undertake the business of real estate nor provide funds to the construction companies, builders developers etc., and companies dealing in real estate.
- b) the *Modaraba* shall comply with all the conditions of the *Modaraba* authorization certificate of Registrar *Modaraba*.

- c) Out of 20 % contribution by the management company, 10% contribution by the management company would become salable after two years with the approval of Registrar *Modaraba*.
- d) Friends, relatives, associates, etc. receiving preferential shares form sponsors' quota would not sell their certificates for period of two years.

## PART VI

### FINANCIAL INFORMATION

#### 6.1 AUDITORS' CERTIFICATE UNDER THE *MODARABA* COMPANIES AND *MODARABA* RULES, 1981

We certify that the First DADABHOY *Modaraba*:-

a) has received subscription from :

	Rupees
i) DADABHOY <i>Modaraba</i> Management (Private) Limited	
ii) Sponsor, Associated undertaking Financial Institution	10,000,000
	-----
	15,000,000

b) has not done any business or acquired any property.

Sd/-  
 (Name deleted).  
 CHARTERED ACCOUNTANTS  
 Karachi:  
 Dated: May 28, 1994.

#### 6.2 FINANCIAL YEAR

The financial year of the First DADABHOY *Modaraba* will be from January 01 to December 31 each year.

## PART VII

### 7. DIRECTORS OF THE *MODARABA* MANAGEMENT COMPANY

#### 7.1 INFORMATION IN RESPECT OF GROUP COMPANIES

(Names deleted).

Sr.	Name of Company	1993	1992	1991	1990	1989
1.	Pak Resources Insurance Co.Ltd.	Nil	15% R-1.1	10%	Nil	Nil
2.	C&K Management Association	Nil	Nil	Nil	Nil	
3.	Crescent Leasing Corporation Ltd. Nil		Nil	Nil	Nil	Nil

#### 7.2 OVERDUE LOANS

There have been no overdue loans in respect of the above companies during the last five years.

#### 7.3 CHIEF EXECUTIVE

(Names deleted).

#### 7.5 ADMINISTRATION - MANAGEMENT OF FIRST DADABHOY *MODARABA*

- a) The *Modaraba* Company shall also maintain register of *Modaraba* Certificate holders and only certificate holders in the said register shall be deemed to be owner thereof.
- b) The *Modaraba* Management Company shall keep separate books of accounts relating to the income and expenditure of and connected with the *Modaraba* or other *Modarabas*. The books of accounts shall be open to inspection by the directors and auditors of the *Modaraba* Management Company and the auditors of the *Modaraba*.

- c) The *Modaraba* Company shall, within two months of the first half of the financial year, prepare and submit the financial position of the *Modaraba* whether audited or otherwise, besides any other statements or information that the Board of *Modaraba* Company may like to include, to the Registrar of *Modarabas* and to all registered certificate holders.
- d) Within six months of the close of the accounting year of the *Modaraba*, the *Modaraba* Management Company shall prepare and circulate to holders of *Modaraba* Certificates.
- i) The annual balance sheet and profit and loss account;
  - ii) A report of the auditors on the balance sheet and profit and loss account;
  - iii) A report by the *Modaraba* Company on the activities and business prospects of the *Modaraba* and the profits for distribution to the certificate holders; and
  - iv) Any other statement or information that the Board of the *Modaraba* Management Company may like to include.
- e) M/s. M. Yousuf Adil & Co., Chartered Accountants have given their consent to act as Auditors of the *Modaraba*. The Registrar, *Modaraba* Companies and *Modarabas*, Islamabad has approved the appointment of M. Yousuf Adil & Co., Chartered Accountants as auditors of the First DADABHOY *Modaraba* for the first accounting year. This fees will be Rs. 25,000/- per annum. The *Modaraba* auditors will be appointed and approved on an annual basis as required under *Modaraba* Ordinance and Rules.
- f) The accounting record of FIRST DADABHOY *MODARABA* will be kept on the basis of financial year ending on the last day of December each year.
- g) The *Modaraba* Company will provide office space, custodial and management service and charge a management fee at the rate of 10% per annum of the net annual profits of the *Modaraba*.



- h) The *Modaraba* Company shall be competent to do all other acts which in its opinion may be necessary to promote the interest of the certificate holders based on investment climate in Pakistan and else where and the condition of the capital market and as may be warranted by commercial consideration.

## 7.6 INTEREST OF THE *MODARABA* COMPANY, AND ITS DIRECTORS AND OFFICERS

*Modaraba* Management Company is interested to the extent of its capital investment in the *Modaraba* and also in management fee to the extent of 10% of the annual profit of the *Modaraba*. There is no other interest of *Modaraba* company and its directors and officers in promoting the *Modaraba* or proposed to be acquired by the *Modaraba*. The Directors deemed to be interested in the dividends payable on the *Modaraba* that may be acquired by them. .

## PART VIII

### MISCELLANEOUS

- |  |   |
|--|---|
| 8.1 NAME OF <i>MODARABA</i>                              | Dadabhoy <i>Modaraba</i>  |
| 8.2 PRINCIPAL PLACE OF BUSINESS/SHARE DEPT.              | Ebrahim Estate<br>D-1A, Block 7&8<br>KCHSU Sharea Faisal, Karachi<br>Tel: 440012-4<br>Fax: 4547301  |
| 8.3 NAME OF MANAGEMENT COMPANY AND ITS REGISTERED OFFICE | Dadabhoy <i>Modaraba</i> Management (Pvt.) Ltd.<br>Ebrahim Estates<br>D-1A, Block 7&8<br>KCHSU Sharea Faisal<br>Karachi<br>Tel: 440012-4<br>Fax : 4547301 |

8.4 <b>BANKERS TO THE MODARABA</b>	Allied Bank of Pakistan National Development Bank Finance Corporation Limited
8.5 BANKERS TO THE ISSUE (LOCAL)	01 Allied Bank of Pakistan Ltd. 01 Allied Bank of Pakistan Ltd. 02 First Women Bank Limited 03 Habib Bank Limited 04 Habib Bank AG Zurich 05 Mehran Bank Limited 06 Muslim Commercial Bank Ltd. 07 National Bank of Pakistan 08 United Bank Limited
8.6 BANKERS TO THE ISSUE (OVERSEAS)	01 Habib Bank AG Zurich 02 Habib Bank Limited 03 United Bank Limited
8.7 AUDITORS OF THE MODARABA MANAGEMENT COMPANY	M/s Mehmood Zuberi & Co. Chartered Accountant & Co. Al-Amna Plaza M.A. Jinnah Road, Karachi
8.8 AUDITORS OF THE MODARABA	M/s M. Yousuf Adil & Co. Chartered Accountants A-35, Block 7&8 Cavish Court, K.C.H.S.U. Sharea Faisal, Karachi Phone: 446056-9 Fax: 442841
8.9 LEGAL ADVISORS	Syed Raizul Hassan Advocate 9, Yousuf Chamber M.A. Jinnah Road, Karachi

8.10 CONSULTANTS TO  
THE ISSUE

Mts. M. Yousuf Adil & Co.  
Chartered Accountants,  
Cavish Court,  
A-45, Block 7&8, KCHSU  
Sharea Faisal, Karachi  
Phones: 446056-9  
Fax: 442841

8.11 COMPUTER  
BALLOTINGM.

Yousuf Adil & Associates  
(Pvt) Limited  
A-37, Block 7&8 Susaka Chamber  
KCHSU, Sharea Faisal  
Karachi  
Phones: 446056-9  
Fax : 442841

**8.12 MATERIAL CONTRACTS**

- a) Equity Participation agreement dated May 11, 1994 has been entered with Investment Corporation of Pakistan for Rs.2.50 million.
- b) Underwriting agreement dated May 11, 1994 with Investment Corporation of Pakistan for underwriting of the present issue of Rs.7.50 million.
- c) Underwriting agreement dated March 24, 1994 with DADABHOY Investment (Private) Limited for underwriting of the present issue of Rs.5.00 million.
- d) Underwriting agreement dated April 27, 1994 with Bank of Khyber for underwriting of the present issue of Rs.5.00 million.  
Underwriting agreement dated April 18, 1994 with Asset Investment Bank Limited for underwriting for the present issue of Rs.7.50 million.
- f) Underwriting agreement dated March 24, 1994 with Pak Resources Insurance Company Limited for underwriting of the present issue of Rs. 10.00 million.

### **8.13 INSPECTION OF DOCUMENTS AND CONTRACTS**

Copies of Memorandum and Articles of Association of the management company, the consent order of the Controller of Capital Issues, the Auditors Certificate and copies of the agreements and Feasibility Report to in this prospectus may be inspected during the usual business hours on any working day at the Registered Office of the management company from the date of publication of this prospectus till the closing of the subscription list.

### **8.14 LEGAL PROCEEDINGS**

There are no legal proceedings against the Management nor has the Management Company initiated any legal proceedings against any party.

### **8.15 CERTIFICATE OF RELIGIOUS BOARD**

The Religious Board constituted under Section 9 of the *Modaraba* Companies and *Modaraba* (Floatation and Control) Ordinance, 1980 has approved the' proposal of DADABHOY *Modaraba* Management (Private) Limited for floatation of the First DADABHOY *Modaraba* and has certified that the floatation of the First DADABHOY *Modaraba* as per Prospectus submitted by DADABHOY *Modaraba* Management (Private) Limited is not opposed to the injunctions of Islam.

### **8.16 FULFILLMENT OF THE REQUIREMENT OF VARIOUS CLAUSES OF FOURTH SCHEDULE OF MODARABA COMPANIES AND MODARABA RULES, 1981**

As required under clause 19, 20 and 26 of the schedule, it is clarified that no property has so far been purchased or acquired or is proposed to be purchased or acquired and that no business has also so far been carried on by the *Modaraba*. It is also confirmed that no amount has been paid or benefit given to the *Modaraba* Company. As required under clause 21 of the Fourth Schedule under reference, no amount is paid within the two preceding years or payable as commission for subscribing or agreeing to subscribe or procure or agreeing to procure subscription for any certificates of the *Modaraba*, except as disclosed in this prospectus.

## PART IX

### 9.1 THE FORM OF *MODARABA* CERTIFICATE

**FIRST DADABHOY *MODARABA***  
**Managed by**  
**DADABHOY *MODARABA* MANAGEMENT**  
**(PRIVATE) LIMITED**

Authorized Fund Capital Rs. 100,000,000/-

DIVIDED INTO 10,000,000 CERTIFICATES OF RS. 10/- EACH

This is to certify that is/are the registered holder(s) of 100 fully paid *Modaraba* Certificates of Rs. 10/- each numbered as below in FIRST DADABHOY *MODARABA* subject to the terms of the Prospectus and that a sum of Rs. 10/- has been fully paid for each Certificate.

Father's/husband's Name:

Address:

Folio No.	Certificate No.	Distinctive	Nos.	No. of Certificates
		From	To	

Given under the Common Seal of the Company

Director

This                      day of                      199

Director

## PART X

### APPLICATION AND ALLOTMENT INSTRUCTIONS

1. Name and addresses must' be written in full in block letters in English and should not be abbreviated. All applications must bear the signature and address corresponding with that recorded with the bank in the applicant's account. IN CASE OF DIFFERENCE IN SIGNATURES RECORDED WITH THE BANK AND THOSE ON THE NATIONAL IDENTITY CARD, BOTH SIGNATURES SHOULD BE AFFIXED ON THE FORM.
2. Applications must be made on the *Modaraba's* printed form or photo copy thereof
3. a) Attested copy of National Identify Card should invariably be enclosed and the number indicated on each application except in case of the applications filed by the ICP on behalf of its account holder/ investors. Copy of National Identify Card can be attested by any Federal/ Provincial Government, Gazetted Officer, Councilor, Bank Manager, Oath Commissioner or Head Master of High School etc.  
b) Original Identify Card along with one attested photo copy must be produced for verification by the Branch at the time of presenting an application. The attested photo copy will, after verification, be retained by the branch along with the application.
4. a) Application must not be for less than 500 certificates of Rs.10/-each.  
b) *Modaraba* Certificates will be issued in lots of 100 certificates of Rupees 10/- each.
5. Copies of the Prospectus and Application Form may be obtained from the members of the Karachi Stock Exchange (Guarantee) Limited, the Bankers to the issue and their branches, Consultants to the issue and head office of the DADABHOY *Modaraba* Management (Private) Limited.

6. a) Remittance for the full amount of certificates must accompany each application and must be forwarded to any of the bankers to the issue. Remittance should be in the form of cheque or draft drawn payable to one of the bankers to the issue "A/C FIRST DADABHOY MODARABA" and crossed "A/C PAYEE ONLY" and must be drawn on a bank in the same town as the bank to which the application form has been sent. Subscription money must be paid by cheque drawn on applicants' own account.
- b) Only one application will be accepted against each account. In case of joint accounts, one application will be accepted in the name of each of the joint account holder. No application will be accepted in the name of person shown as minor in the records of the bank.

7 Application By Non-Resident Pakistanis

- a) Non-Resident Pakistanis are instructed not to mail their application money/foreign currency drafts to Pakistan as these will not be entertained.
- b) Non-resident Pakistanis are allowed to deposit the subscription money in cash in any branch of the Bankers to the Issue abroad or remit by draft to any authorized bank in nearest city abroad.
- c) A Non-Resident Pakistan national must submit the application in duplicate along with the declaration attached to the application form.
- d) PAKISTANIS RESIDING IN SAUDI ARABIA may send their application forms along with bank draft drawn on any Bankers to the Issues in BAHRAIN A/C. "FIRST DADABHOY MODARABA" to reach them on or before the close of subscription list.
- e) Non-resident Pakistanis must mentioned their Pakistan's address on the application forms.
- f) Only one application will be accepted against each account. In case of joint accounts, one application will be accepted in the name of each of the joint account holders. No application will be accepted in the name of person shown as minor in the records of the Bank.

8. Application shall not be made by or on behalf of minors and/or person of unsound mind or firms or trusts. Applications made by Companies and bodies corporate must be accompanied by a copy of their Memorandum and Articles of Association or equivalent instrument. Where applications are made by virtue of power of attorney, the power of attorney must be lodged with the application.

9. Joint application by more than four persons shall not be accepted. In case of joint application each person must sign the application form. The *Modaraba* Certificates will be dispatched to the person whose name appears first on the application form through the bank where the application is tendered, or by post and where any amount is refundable in whole or in part, the same will be refunded by cheque and by post to the person named first on the application form without interest or through the bank where the application is tendered.

10. Bankers are not allowed to make application for the *Modaraba* Certificates of the value of Rupees 5000/- on account of their constituents. Such application shall be made by the subscriber himself complete in all respects and shall be certified by the Bank Manager as provided in the application form. *Modaraba* Certificates in respect of such applications shall be issued in the name of the applicant and sent to the postal address stated by the applicant or to the Bank through which the application is tendered. These shall not be issue in the name of the bankers.

11. Application for the *Modaraba* Certificates above the value of Rupees 5000/- may be made by banks on behalf of their constituents but must contain all information in respect of each constituent on the application form. All such applications made by banks must also be certified by the Bank Manager concerned as provided in the application form. *Modaraba* Certificates in respect of such applications will be made in the names of banks on account of the constituent and the relevant *Modaraba* Certificates and advises for refund will be sent to bank concerned.

12. No receipt will be issued for payment made with the application but an acknowledgment will be forwarded in due course either by issue of *Modaraba* Certificate in whole or-in part or by refund of the money paid



with the application. The Bankers to the issue will issue provisional acknowledgment for application lodged with them.

13. It should be permissible for a bank to refund subscription money to an unsuccessful applicant having an amount in that bank crediting such account instead of remitting the same by cheque, pay order or bank draft. Applicants should, therefore, not fail to give their bank account number.

14. Allotment shall be made in accordance with the instructions laid down by the Controller of Capital Issues/Corporate Law Authority.

15. Applications shall be subject to pre-ballot as well as post ballot scrutiny. Applications which do not meet the above requirements or applications which are incomplete will be rejected.

16. In case of applications made by a banker or a Stock Exchange Broker, the banker or the broker shall obtain the certificate from the applicants in term of paragraph (3) of the application form and forward the same in original to DADABHOY *MODARABA* MANAGEMENT (PRIVATE) LIMITED with the application.

17. Making any false statement in-the application or willfully supplying of incorrect information therein will make the applicant or the bank liable to legal action.

18. The *Modaraba* Certificates will be dispatched through the bankers to the issue.

### **SIGNATORIES TO THE PROSPECTUS**

(names deleted)

Karachi.

Dated: 21st July, 1994

Subscription date: During Banking Hours on Sunday July 31, 1994

Tk/r

**Legal Deposit no. 3044/16**  
**ISBN: 9960-627-91-8**

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# ISLAMIC DEVELOPMENT BANK (IDB)

## Establishment of the Bank

The Islamic Development Bank is an international financial institution established in pursuance of the Declaration of Intent by a Conference of Finance Ministers of Muslim countries held in Jeddah in Dhul Qa'da 1393H (December 1973). The Inaugural Meeting of the Board of Governors took place in Rajab 1395H (July 1975) and the Bank formally opened on 15 Shawwal 1395H (20 October 1975).

## Purpose

The purpose of the Bank is to foster the economic **development** and social progress of member countries and Muslim communities individually as well as jointly in accordance with the principles of Shari'ah.

## Functions

The functions of the Bank are to participate in equity capital and grant loans for productive projects and enterprises besides providing financial assistance to member countries in other forms of economic and social development. The Bank is also required to establish and operate special funds for specific purposes including a fund for assistance to Muslim communities in non-member countries, in addition to setting up trust funds.

The Bank is authorized to accept deposits and to raise funds in any other manner. It is also charged with the responsibility of assisting in the promotion of foreign trade, especially in capital goods among member countries, providing technical assistance to member countries, extending training facilities for personnel engaged in development activities and undertaking research for enabling the economic, financial and banking activities in Muslim countries to conform to the *Shari'ah*.

## Membership

The present membership of the Bank consists of 48 countries. The basic condition for membership is that the prospective member country should be a member of the Organization of the Islamic Conference and be willing to accept such terms and conditions as may be decided upon by the Board of Governors.

## Capital

The authorized capital of the Bank is six billion Islamic Dinars. The value of the Islamic Dinar, which is a unit of account in the Bank, is equivalent to one Special Drawing Right (SDR) of the **International Monetary Fund**. The subscribed capital of the Bank is **3,654.78** million Islamic Dinars **payable in freely convertible** currency **acceptable** to the Bank.

## Head Office

The Bank's head office is located in Jeddah in the Kingdom of Saudi Arabia and the Bank is authorized to establish agencies or branch offices elsewhere.

## Financial Year

The Bank's financial year is the Lunar Hijra year.

## language

The official language of the Bank is Arabic, but English and French are additionally used as working languages.

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ISLAMIC RESEARCH AND TRAINING INSTITUTE ISLAMIC DEVELOPMENT BANK  
TEL 8361400 FAX 6378927 / 6368871 TLX 301137/601945 CABLE: BANKISLAMI  
P.O. BOX 9201 JEDDAH 21413

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