

Draft Rules

Bangladesh Securities and Exchange Commission (Exchange Traded Fund) Rules, 2016

In exercise of the power conferred by section 24(1) of the বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন আইন, ১৯৯৩ (১৯৯৩ সনের ১৫ নং আইন) read with section 33 of the Securities and Exchange Ordinance, 1969 (Ordinance No. XVII of 1969) and in pursuance of section 32 of the said Ordinance, and rule ২(খ) of the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১; the Bangladesh Securities and Exchange Commission hereby makes, after prior publication, the following Rules, namely: -

CHAPTER I PRELIMINARY

1. Short title, commencement and coverage: –

- (1) These Rules may be called the “Bangladesh Securities and Exchange Commission (Exchange Traded Fund) Rules, 2016” (hereinafter also referred as, “rules” and/or “Rules”).
- (2) These Rules shall be applicable for the registration and regulation of exchange traded funds but not for the registration of the asset managers, Trustees, custodians, market makers or such other parties of the exchange traded funds and for matters connected therewith and incidental thereto.
- (3) unless otherwise specified in these rules, the registration and regulation of the parties of the exchange traded fund like sponsors, asset managers, trustees, custodians of such funds shall be under the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ (hereinafter may also be recognized as “the Securities and Exchange Commission (Mutual Fund) Rules, 2001” or “mutual fund rules”) or amendment thereof.
- (4) Unless otherwise specified in these rules, the registration and regulation of other related parties of exchange traded funds like stock-brokers, stock-dealers, market makers, index providers, authorized participants shall be under the relevant governing rules of the Commission.
- (5) These Rules shall apply only to passively-managed Exchange Traded Funds (ETFs) unless or until otherwise defined and specified by the Commission through order/notification and published the same in the Official Gazette. Amendments to these rules may accordingly be introduced to address issues such as but not limited to those affecting other forms of ETF, including actively-managed ETF, upon determination by the Commission that such other forms of ETF are necessary for the development of the capital market.

- (6) Exchange Traded Funds (ETFs) shall be treated as a Collective investment scheme as per the rule 2(ধধ) of the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১; hence, shall abide by the provision of the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ or amendment thereof, unless otherwise modified or waived or specified by these rules.
- (7) These rules shall come into force on the date of publication in the Official Gazette.

2. Definitions. -

- (1) In these Rules, unless there is anything repugnant in the context or subject-
 - (1) “Act” means the বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন আইন, ১৯৯৩ (১৯৯৩ সনের ১৫ নং আইন) and amendment thereof;
 - (2) “actively managed ETF” means the basket of securities of the exchange traded fund which do not represent any selective index ; instead they seek to achieve a stated investment objective by investing in a portfolio of stocks, bonds, and other assets.
 - (3) “authorized participants” means a registered Stock broker- stock –dealer, as defined under the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (স্টক ব্রোকার, স্টক ডিলার ও অনুমোদিত প্রতিনিধি) বিধিমালা, ২০০০ or amendment thereof, that entered into an authorized participating agreement (APA) or any similar arrangement with the ETF (i.e. with asset manager of ETF), and participates in the creation and redemption of units in the ETF in accordance with the terms provided under the agreement between the authorized participant and the ETF.
 - (4) “arbitrage” means the practice of taking advantage of price differential between two or more markets; where in case of ETF, the practice of an authorized participant in creating more ETF units for sale in the secondary market, or purchasing ETF units in the secondary market for redemption with the Fund, in order to take advantage between the price differential of the ETF’s Net Asset Value per unit (“NAVpu”) and the traded price.
 - (5) “asset manager” means a registered ‘সম্পদ ব্যবস্থাপক’ as defined in the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ who is appointed as an asset manager under these rules;
 - (6) “basket of securities” or “index constituents” means the securities whose name and number are specified each business day by an ETF in exchange for which, the ETF will issue, or in return for which it will redeem ETF units; provided that the ETF may require or permit a purchaser of a creation unit to substitute cash for some or all of the securities in the basket of securities.

- (7) “benchmark index” means index approved by the Commission, is specified in the constitutive documents of the ETF and against which the performance of the ETF is measured.
- (8) “cash component” means the difference between the applicable net asset value (NAV) of a creation unit and the market value of the portfolio deposit. The cash component will represent accrued dividend, accrued annual charges including management fees, and residual cash in the scheme.
- (9) “Commission” means the Bangladesh Securities and Exchange Commission (hereinafter also referred as “BSEC”) established under section 3 of the বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন আইন, ১৯৯৩ (১৯৯৩ সনের ১৫ নং আইন);
- (10) “creation unit” means the smallest block of ETF units for issuance and redemption as determined by the Asset manager and disclosed in the constitutive documents.
- (11) “custodian” means a registered “হেফাজতকারী” as defined in the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১;
- (12) “exchange traded fund” or “fund” or “ETF” means any fund established or constituted in Bangladesh as a “Collective Investment Scheme (সমন্বিত বিনিয়োগ স্কীম)” mentioned in the rule ২(ধখ) of the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ in the form of a trust, which;
- i. is framed as an “actively managed ETF” or as a “passively-managed ETF” or any other type of fund as declared by the Commission as exchange traded fund time to time;
 - ii. is a privately pooled investment vehicle that collects funds or other forms of subscription in lieu of funds from eligible investors with the purpose of investing in accordance with a defined investment policy for the benefit of its investors;
 - iii. is an open-end fund in nature but shall be a listed fund with the Exchange;
 - iv. primarily collects subscription in the non-cash form by way of private placement only; and does not offer its units for public subscription unless allowed by the Commission; and
 - v. is broadly covered under the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১, with an exception related to regulate fund formation, management activities and other issues those specified in these rules;
- (13) “connected person” means in relation to a natural person, spouse or any person dependant on such person, a partner of an undertaking of which such person is also a partner, company or body corporate in which such person is a substantial shareholder or director; and in relation to a legal person, an undertaking, company or body corporate which is a holding, subsidiary or associate

company of such legal person or registered funds under the management of asset manager ;

- (14) “constitutive documents” means the principal documents and agreements governing the formation of a fund including the trust deed, placement memorandum, letter of offer, subscription agreement, investment management agreement, authorized participant agreement, prospectus, abridged offer document and all other related material documents;
- (15) “fund size” means net asset value of the fund derived by value of the assets under the fund at market price/fair value net off value of the outstanding liabilities of the fund on a particular date;
- (16) “depository” means any depository established under the ডিপজিটরি আইন, ১৯৯৯ (১৯৯৯ সনের ৬ নং আইন);
- (17) “eligible investors” means participants eligible and competent to understand the risk & return potentials to invest and commit to subscribe to any exchange traded fund; and be either a registered local or foreign asset manager or asset manager or a company incorporated in Bangladesh or abroad or a statutory body or a local government authority or a bank or a financial institution or an insurance company or a co-operative society or a merchant banker & portfolio manager or a stock dealer or a market maker or a mutual fund or a collective investment scheme or an alternative investment fund or a registered pension fund or a registered provident fund or a registered trust fund or a registered super annuation fund or a registered foreign fund or a foreign individual or a high net worth resident or non-resident Bangladeshi individual or any other institution as registered with the Commission or any other category as declared by the Commission;
- (18) “foreign fund” means a fund established and registered outside Bangladesh and engaged in the business of management of mutual fund/ collective investment scheme/such other funds by whatever name called;
- (19) “high net worth individual” or “HNI” means a natural person having minimum net worth of taka 20 (twenty) million or any other ceiling declared by the Commission and such certified by the concerned tax authority;
- (20) “index” means a single number that is calculated based on known methodology and is used to gauge the price and/or volume movements of a list of selected securities traded in an exchange;
- (21) “index fund” means a collective investment scheme, the principal objective of which is to track, replicate or correspond to a financial index or benchmark index, with an aim of providing or achieving investment results or returns that closely match or correspond to the performance of the index;

- (22) “index provider” means a person that performs the functions of benchmark index construction and meet the requirements of these rules;
- (23) “in-kind creation” means a portfolio of securities and the cash component to be delivered to the Asset manager by an Authorized Participant either on its own account or on behalf of its client for creation of ETF units at least in creation unit size.
- (24) “investment management agreement” or “IMA” means an agreement between asset manager and trustee depicting details procedure of investment management of an exchange traded fund;
- (25) “investment committee” means a committee to approve investments of the fund comprising of 03 (three) to 05 (five) members;
- (26) “Islamic fund” means an ETF which invests in Shariah compliant securities/companies/instruments those are under a benchmark index;
- (27) “market maker” means a registered “বাজার সৃষ্টিকারী” as defined in the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (বাজার সৃষ্টিকারী) বিধিমালা, ২০০০ or amendment thereof;
- (28) “money market instruments” means all the transferable money market instruments defined by the Central Bank of Bangladesh including the deposit certificate/savings certificate.
- (29) “NAV per unit” means NAV of a fund divided by total number of units outstanding at a given time;
- (30) “net asset value” or “NAV” means total assets of a fund excluding total liabilities at a given time;
- (31) “Ordinance” means the Securities and Exchange Ordinance, 1969 (Ordinance No. XVII of 1969);
- (32) “passively managed ETF” or “Index based ETF” means the basket of securities of the exchange traded fund represent a selective index i.e. benchmark index. Such ETF invest in most or all of the securities of the said index;
- (33) “portfolio deposit” means a pre-defined basket of securities that represent the basket index together with a cash component (if applicable) for the purposes of issuance and redemption of creation units and will be announced by the Asset manager, and composition of portfolio deposit may change from time to time.
- (34) “private placement” means offer of units to the eligible investors in a way (like “web show” or “road show”) other than public offering;
- (35) “realized fund” means the total amount of fund paid-up by the unit holders out of the fund’s target size ;
- (36) “register” means the register recording the details information of the units and unit holders of the fund;
- (37) “Schedule” means the Schedule annexed to these Rules;

- (38) “Shariah council” means a body of Shariah experts who certifies the index constituents as Shariah-compliant. A Shariah council performs the following responsibilities:
- a) prepares guidelines and methodologies for selecting/screening of companies/securities/ instruments to be acceptable as per Shariah principles;
 - b) recommends companies/securities/instruments for investment, consistent with the guidelines and methodologies;
 - c) certifies/approves the criteria of identifying prohibited incomes and recommending distribution of those prohibited income to any charitable organization;
 - d) certifies at the end of each accounting year that all investments and incomes accounted for are Shariah compliant;
 - e) any other responsibilities determined by the Commission or specified in the constitutive documents;
- (39) “sponsor” means one or more eligible investors subscribing initially, jointly or solely, to form an ETF;
- (40) “subscription agreement” means an agreement, between the asset manager and the eligible investors for subscribing to the fund;
- (41) “tracking error” means the standard deviation of the difference in relative returns between the ETF and its benchmark index in a given period declared in the constitutive documents;
- (42) “trust” means a trust established under the Trust Act, 1882 (Act No. II of 1882) for the purpose to constitute an exchange traded fund;
- (43) “Trustee” means a registered “ট্রাস্টি” as defined in the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ or amendment thereof;
- (44) “trust deed” means the deed executed between the sponsor(s) and the Trustee in respect to the fund;
- (45) “Web show” means electronic presentation by an asset manager to eligible investors (EI) about the issuance of the ETF disclosing all the features;
- (2) Unless otherwise specifically provided, words and expressions used herein and not defined, but defined in the Trust Act, 1882 (Act No. II of 1882), the Registration Act, 1908 (Act No. XVI of 1908), the Securities and Exchange Ordinance, 1969 (Ordinance No. XVII of 1969), ব্যাংক-কোম্পানী আইন, ১৯৯১ (১৯৯১ সনের ১৪ নং আইন), বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন আইন, ১৯৯৩ (১৯৯৩ সনের ১৫ নং আইন), আর্থিক প্রতিষ্ঠান আইন, ১৯৯৩ (১৯৯৩ সনের ২৭ নং আইন), কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন), ডিপজিটরি আইন, ১৯৯৯ (১৯৯৯ সনের ৬ নং আইন), বীমা আইন, ২০১০ (২০১০ সনের ১৩ নং আইন) shall have the same meanings respectively assigned to them in the said Acts and Ordinances, and Rules and Regulations made there under.

CHAPTER II
EXCHANGE TRADED FUNDS (ETFs)

3. Formation of ETF.-

An ETF applying for registration with the commission shall comply with the following requirements:

- (1) An exchange traded fund shall be constituted in the form of a trust under the Trust Act, 1882 (Act No. II of 1882) and registered under the Registration Act, 1908 (Act No. XVI of 1908).
- (2) Before registration of the trust, the trust deed shall be prepared in accordance with these rules and provision of the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ or amendment thereof; and approved by the Commission.
- (3) The name of the fund shall contain the words “Exchange Traded Fund” or “ETF”
- (4) A fund shall be formed either as a “Passively managed ETF” or “Actively managed ETF” to make a particular type of investment and operate entirely in its respective investment arena only according to the constitutive documents.
- (5) A fund may be operated broadly as an index fund; but in the category either as a general index fund or an Islamic index fund.
- (6) An exchange traded fund shall have the following criteria:
 - (a) minimum fund size at formation shall be at least Tk.500,000,000.00 (taka five hundred million) and subscription by the sponsor(s) is not less than 10% (ten percent) of the fund’s target size:

provided that, the sponsors shall subscribe to the fund before seeking registration of the fund from the Commission;
 - (b) minimum investment by the asset manager shall be at least 3% (three percent) of the fund’s target size:

provided that, if the asset manager also acts as sponsor of a fund, this investment shall be made in addition to its investment as sponsor of the fund;
 - (c) the fund size may be changed through creation and redemption process only by authorized participants (AP).
- (7) The sponsor(s) shall maintain a continuous investment of not less than 3% (three percent) of the fund size;

Provided that investment of the sponsor and asset manager also shall have a lock-in of three (03) years since the listing date of the fund.

- (8) An exchange traded fund shall declare dividend to the unit holders, but not in the form of cash; rather the aforementioned amount of retained earnings equivalent to the dividend declaration shall be reinvested in the fund’s basket of securities and as such issue reinvestment unit as per the mutual fund rules.

- (9) The asset manager and sponsors shall disclose their investment and disinvestment in the exchange traded fund to the Trustee when the investment/disinvestment is made and to the investors in the annual reports.

4. Registration of exchange traded funds.-

- (1) Unless otherwise specified in these rules, the registration of an exchange traded fund shall be in accordance with the relevant provisions of the registration and formation of mutual fund as defined in the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ or amendment thereof;
- (2) On and from the commencement of these Rules, no exchange traded fund shall be formed or operate unless it has obtained registration from the Commission;
- (3) The sponsor and asset manager shall jointly apply for registration of the fund to the Commission as per Schedule 'A' and an application fee of Tk. 100,000.00 (taka one lac) only through a bank draft or payment order issued in favour of the Bangladesh Securities and Exchange Commission.
- (4) On receipt of the application under rule 4(3), the Commission shall examine it, and if it is satisfied that all the requirements of these Rules are fulfilled, may accord registration to the fund and issue a registration certificate as per Schedule 'B', as sought for, within 30 (thirty) working days of receipt of the application.

Provided that, before issuing the registration certificate for the fund, the certified copy of the registered trust deed and confirmation of the contribution of sponsors and asset managers and the required registration fee of the Commission shall be submitted to the Commission.

Provided further that the asset manager shall pay a registration fee @ 0.10% of the fund's target size only through a bank draft or payment order issued in favour of the Bangladesh Securities and Exchange Commission.

- (5) If the Commission finds that the applicant does not fulfill all the requirements of these Rules or any additional submission is required, it may, within 25 (twenty five) days of receipt of the application, direct the applicant to fulfill the requirements within such time as the Commission may determine, and the Commission may accord registration, as prayed for, within 30 (thirty) days of such fulfillment.
- (6) If the Commission finds that the applicant does not fulfill all the requirements of these Rules or mutual fund rules, where a direction to fulfill such requirements was given under rule 4(5) and the applicant fails to fulfill such requirements, the Commission may reject the application, stating the reasons thereof.

5. Conditions of registration certificate for the fund.

- (1) The registration certificate granted under these Rules shall, inter-alia, be subject to the following conditions:-

- (a) the exchange traded fund shall abide by the provisions of these Rules, relevant provisions of the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ or amendment thereof and other applicable laws, rules and regulations;
 - (b) the fund shall not carry on any other activity other than its permitted activities;
 - (c) the fund shall forthwith inform the Commission in writing, if any information or particulars previously submitted to the Commission are found to be false or misleading in any material particular or if there is any material change in the information already submitted.
- (2) An exchange traded fund which has been granted registration for a particular category of investment, cannot be changed its category subsequent to registration.
- (3) A fund shall collect commitments from the eligible investors up-to a period of six months from the date of its registration or any other period set by the Commission; and shall declare to the commission the figure of final commitments collected, which shall not be increased after the said period.

Provided that the Commission shall extend the period by additional three (03) months under any special situation to collect commitment.

- (4) A fund may collect security amount from the eligible investors at the time of commitment, if declared in the constitutive documents, which may be forfeited by the fund if the committed amount is not paid-up, by any eligible investor upon call.
- (5) A fund shall collect commitments at least 50% (fifty percent) of the fund's target size within a period of six months from the date of registration. In the event of failure to which, the asset manager shall refund the amounts realized from the investors as per the refund provisions outlined in the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ or amendment thereof.
- (6) If the Commission is satisfied with the submission as per sub-clause (3) and (5) above, shall give approval to collect the basket of securities or in combination of securities and cash from the eligible investors;

Provided that the authorize participants shall not collect cash subscription more than 50% of the committed amount of the eligible investors.

Provided further that the asset manager shall take prior approval of the Commission in the constitutive documents before subscription collection through combination of cash and index constituents.

6. Annual fee of Fund.-

- (1) The fund registered under these Rules shall pay an annual fee @ of 0.05% of the year end fund size to the Commission through a bank draft or payment order issued in favour of the Bangladesh Securities and Exchange Commission within 01(one) month of end of each financial year.

- (2) In case of failure to pay the annual fee as per sub-clause (1) above, the asset manager shall be liable to pay, from the asset manager's own account, a penalty of Tk.50,000.00 (taka fifty thousand) only for each month of default or part thereof.

7. Cancellation of registration of a fund.- The Commission, if thinks fit, may cancel the registration of a fund after informing the Trustee and providing the asset manager and the Trustee an opportunity of being heard if:

- (1) the Commission determines that such action is necessary in the interest of the unit holders;
- (2) the unit holders may request the Commission on reasonable grounds, through a special resolution, to cancel the registration of the fund; or
- (3) the Trustee satisfies the Commission, on reasonable grounds that continuation of the fund may be detrimental to the interest of its unit holders .

8. Effect of cancellation of registration of a fund.-

- (1) Where the Commission decides to cancel the registration of a fund, the Commission shall instruct the Trustee to proceed for winding-up of the fund in terms of the provision of সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ or amendment thereof, unless otherwise specified in these Rules.
- (2) The liquidation of assets and distribution of the fund upon revocation of the trust shall be made by the Trustee in accordance with the winding-up procedure specified in the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ or amendment thereof, unless otherwise specified in these Rules.
- (3) The trust shall stand extinguished after disposal of all assets and distribution of proceeds to the unit holders.

CHAPTER III OFFERING OF ETF UNITS

9. Process of public offer. –

- (1) Public offer process for ETF can be by either private placement method or combination of private placement and initial public offer (IPO) method in the following manner:
 - (a) **Subscription collection through private placement:** when ETF is offered only among the eligible investors under private placement subject to fulfillment of the following conditions :

- (1) such type of public offer is mandatory for index based or passively managed ETF, unless otherwise exempted by the Commission under any special situation;
- (2) the asset manager shall submit a placement memorandum/Letter of Offer for approval of the Commission within 15 days of receiving the registration certificate;

Provided that the commission may extend time for submission of placement memorandum by additional 15 days under special situation.

- (3) the authorized participants, in favour of the Asset manager, are required to collect the basket of securities or in lieu of the basket of securities from the eligible investors (EI) as per their committed subscription to the ETF and deliver only in the form of basket of securities to the ETF within 30 days of receiving the approval as per rule 5(6) of these rules;
- (4) no cash subscription shall be allowed for eligible investors under this method unless the authorized participants are agreed through a subscription agreement with the eligible investors and with prior approval of the Commission;
- (5) in case of cash or other form of subscription by the eligible investors, the authorized participants are responsible to convert such subscription into the index constituents or basket of securities before delivery to the ETF as per the APA;
Provided that the asset manager shall declare in the constitutive document the required time and process of such conversion of cash into the index constituents by the Authorized participant.
- (6) the contents of all sorts of subscription agreement shall be approved by the Trustee of the ETF;
- (7) no initial public offer (IPO) or any sorts of public offer is conducted under this method.

(b) **Subscription collection through public offer:** when ETF is offered to the eligible investors under private placement method and to all sorts of investors through an initial public offer (IPO) subject to fulfillment of the following conditions:

- (1) such type of public offer may only be conducted subject to prior approval of the commission;

Provided that only such asset manager can seek approval for “subscription collection through public offer” from the Commission who has already collected the final commitment of at least 50% (fifty percent) of the fund’s target size under the “subscription collection through private placement method” as per rule 9(1)(a).

- (2) In such case, the asset manager shall also submit a draft prospectus and abridged version of prospectus to the Commission as per these rules and mutual fund rules within fifteen days of such approval as per sub-clause (1) above;
- (3) In such case the asset manager shall also follow the provision of clause 9(1)(a)(3),(4), and (5) of these rules.
- (4) under the initial public offering (IPO) of the ETF, the asset manager shall follow same process of subscription collection as per the provisions of the Bangladesh Securities and Exchange Commission (Public Issue) Rules, 2015 and in compliance of the the relevant provision of the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ and amendment thereof;

Provided that the nominated authorized participants shall collect the subscription amount in cash and shall also convert into the index constituents as per the rule 9(1)(a)(5) of these rules.

(c) Role of Authorized Participant in subscription collection:

The authorized participants shall take necessary steps with the depository as per the authorized participant agreement (APA) to keep the commitment of the eligible investors and also the subscription of general investors to keep under lock-in form with the depository in the respective BO account before the delivery to the ETF. In this regard, the AP shall also conduct an agreement with the Depository vetted by the asset manager and with due approval of the trustee and the Commission.

- (d) After completion of the subscription collection both through private placement and IPO, if any, the asset manager shall apply to the Commission for final approval of the scheme as per the mutual fund rules.
- (e) In both case of subscription collection, the asset manager shall disclose in the constitutive document in details about the valuation process of the index constituents, and issuance of ETF units for the investors.
- (f) After approval of the scheme by the Commission, the asset manager shall get fifteen (15) days time to construct the index fund following the benchmark index.

Provided that on application of the asset manager the Commission may allow maximum additional 15 (fifteen) days time to construct the index fund fully in compliance of benchmark index.

(2) Listing of ETF with the Exchange:

- (a) The provision of listing of the ETF shall be in compliance with the provision of সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ and amendment thereof; and as per the listing regulations of the exchange(s);

- (b) Commission in the interest of the public may extend the time frame for listing of the fund upto two months only.
- (c) The ETF shall only start trading in the exchange after full construction of the benchmark index;
- Provided that the commission may allow trading of the ETF in the exchange with maximum 3% cash component in the fund.

CHAPTER IV APPOINTMENTS OF PARTIES OF THE ETF

10. Appointment of an Asset manager.-

- (1) An asset manager (also referred as asset management company) shall be registered as “সম্পদ ব্যবস্থাপক” by the Commission under the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ and no person shall act as the asset manager to any exchange traded fund without such registration:

provided that, a registered asset manager, shall not be eligible to be an asset manager of ETF; if it has not completed successful operation of at least five years and not have exposure of fund management for at least one registered fund with the commission :

further provided that, if a foreign entity or foreign fund management company intends to act as asset manager of ETF wither solely or as joint venture in Bangladesh, it shall form an asset management company incorporated in Bangladesh and such company shall thereafter get registration under the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১. The eligible asset manager shall also fulfill the following conditions:

- (a) Shall have adequate financial, technical, infrastructural and organizational facilities and human resources, and employ appropriate systems, procedures, technologies, processes and personnel to discharge exchange traded fund management services in a proper and efficient manner on an ongoing basis;
- (b) Shall have such financial resources above the net worth of Tk. 50 million or required capital level under mutual fund rules to subscribe the ETF as per rule 3(6)(b) by the asset manager.
- (c) neither the applicant, nor any of its directors is a loan defaulter;
- (d) neither the asset management company, nor any of its affiliates or directors has any relation with the Trustee, custodian, authorized participant, and market maker of the exchange traded fund;

- (e) shall have no track record of default, negligence or non-compliance with any of the securities laws for discharging its duties, if it is in any way connected with the securities market;
 - (f) shall have satisfactory internal controls and written compliance and risk management procedures addressing all applicable regulatory requirements;
 - (g) shall have an investment committee with at least three members;
 - (h) shall have at least two officials having a commission approved qualification on investment management.
- (2) On receipt of the application under rule 3(1), the Commission shall examine it, and if it is satisfied that all the requirements of these Rules are fulfilled, the Commission may accept the applicant as eligible asset manager.
 - (3) If the Commission finds that the applicant does not fulfill all the requirements of these Rules or any additional submission is required, it may, within 25 (twenty five) days of receipt of the application, direct the applicant to fulfill the requirements within such time as the Commission may determine.
 - (4) If the Commission finds that the applicant does not fulfill all the requirements of these Rules, or where a direction to fulfill certain requirements was given under rule 3(3) and the applicant fails to fulfill such requirements, the Commission may reject the application, stating the reasons thereof.

11. Operation of an Asset Manager

- (1) Unless otherwise specified in these rules about the operation of an asset manager, the provisions of the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ or amendment thereof shall be binding and applicable for an asset manager of an ETF.

12. Duties and responsibilities of an asset manager.-An asset manager shall:

- (1) manage the fund in accordance with the constitutive documents and all applicable laws including notifications, circulars, guidelines and directives issued under those in the interest of unit holders, without gaining any undue advantage for itself or any of its connected persons;
- (2) ensure that in case of a capital/subscription call, the investors are given at least one week time in writing to make the payments/deliverables against such calls;
- (3) make agreements with the “Authorized participants” in the name of “Authorized Participant Agreement (APA)” as per Schedule # ‘E’ or with any other parties related with the ETF.
- (4) carry out all transactions involving the fund on an arm’s length basis;
- (5) ensure that the asset manager, its directors and employees and members of the investment committee do not have any material interest in any “basket of securities” or “index constituents”;
- (6) ensure collection of KYC and other documents from the eligible investors;

- (7) collect undertakings from the eligible investors to the effect that they have understood the constitutive documents and fully aware of the risk & return potentials of the investment in the fund;
- (8) prepare an 'investment and fund management guidelines' with approval of the Trustee and ensure strict compliance of the said guidelines;
- (9) ensure that the investments made are properly identified and held for the benefit of the unit holders in accordance with the provisions of the constitutive documents, these Rules and all other applicable laws;
- (10) ensure that all investments are made as per the investment and fund management guidelines and approved by the investment committee before investment;
- (11) not delegate its fund management functions to any other person;
- (12) Unless otherwise specified in these rules, the roles and responsibilities of an asset manager shall also be in accordance with the relevant provisions of the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ or amendment thereof.

13. Annual asset management fee.-

- (1) The asset manager shall be entitled to get an annual fund management fee up to 0.75% (zero decimal seventy five percent) of weekly average NAV of the fund for managing 'passively managed ETF' and up to 1% (one percent) of weekly average NAV of the fund for managing an 'actively managed ETF'.
- (2) The asset manager shall be entitled of an incremental fee on the net annual increase in fund size by 0.25% on year end basis.

14. Appointment of the Trustee. –

- (1) A trustee shall be registered as 'ট্রাস্টি' by the Commission under the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ and amendment thereof; and no person shall act as trustee to any exchange traded fund without such registration:

provided that, an existing trustee, shall not be eligible to be a trustee of ETF; if it has not completed successful operation of at least five years and have no exposure as a trustee of at least at least three registered fund with the commission, of which at least one fund is dematerialized open end fund in nature:

- (3) Has at least two officials having a commission approved qualification on investment management.

15. Duties and responsibilities of the Trustee. –

- (a) The Trustee shall have to perform the duties and responsibilities outlined in the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ or amendment thereof, unless otherwise specified in these rules and in addition to those described in the trust deed concerned.
- (b) shall approve an investment committee for the fund upon recommendation of the asset manager;

- (c) shall authorize the asset manager including signatories to open bank accounts, BO accounts and securities trading accounts in the name of the fund;
- (d) shall immediately inform the Commission regarding any action of the asset manager that contravenes any provision of the constitutive documents, these Rules or any other applicable laws.

16. Annual Trustee Fee

The Trustee shall be entitled to an annual Trustee fee of maximum 0.25% of the year end fund size.

17. Operation of a Trustee

- (1) Unless otherwise specified in these rules about the operation of a trustee, the provisions of the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ or amendment thereof shall be binding and applicable for a trustee of an ETF.

18. Appointment of the Custodian. –

- (1) A custodian shall be registered as ‘হেফাজতকারী’ by the Commission under the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ and amendment thereof; and no person shall act as custodian to any exchange traded fund without such registration:

provided that, an existing custodian, shall not be eligible to be a custodian of ETF; if it has not completed successful operation of at least five years and have no exposure as a custodian of at least at least three registered fund with the commission, of which at least one fund is open end fund in nature:

- (2) Has at least two officials having successfully completed a commission approved qualification on investment management.
- (3) The custodian made a tripartite agreement with the trustee and asset manager detailing its roles, responsibilities, obligations, required infrastructures & facilities and other issues set among them including the fee structure;
- (4) The annual custodian fee shall not be more than 0.15% of the year end fund size.
- (5) Custodian of the ETF shall be a separate entity from the Trustee and shall not have any type of relation with the parties of the ETF.

19. Transfer or change of parties involved in fund management-

- (1) In compliance of the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ the transfer of the parties of the ETF (i.e. Trustee, Custodian, Asset Manager) shall be conducted; subject to approval of at least two-third majority of the unit holders

- by value of their investment in the fund present and voted in a general/special meeting, and thereafter seek approval of the Commission;
- (2) Unless otherwise specified in these rules in this regard, the matter related to transfer of management of the funds shall be in compliance with the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১.

20. Appointment of Authorized participant-

An ETF or its appointed asset manager shall appoint at least two or more authorized participants (APs) which shall directly participate in the issuance and redemption of ETF units, for its own accounts or for the account of other persons; and which shall deal with investors in the distribution and secondary trading of the ETF units. Before appointment of an authorized participant the following conditions shall be fulfilled:

- (1) The authorized participants shall be a stock-dealer, stock-broker as defined under the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (স্টক ব্রোকার, স্টক ডিলার ও অনুমোদিত প্রতিনিধি) বিধিমালা, ২০০০ or amendment thereof;
- (2) An ETF or its appointed Asset Manager shall ensure that before it enters into an agreement with an AP, it shall have determined that said AP meets the following requirements:
- (a) It is a registered broker dealer and an authorized trading participant of an Exchange and successfully operating since last five years;
- (b) It has adequate resources, including competent staff, and appropriate systems, procedures and processes to execute transactions in ETF units in a proper and efficient manner;
- (c) It adopts adequate and effective internal control procedures, including the necessary Chinese walls between its different office units, and satisfactory risk management procedures; and,
- (d) It has entered into a formal written agreement namely Authorized Participant Agreement subject to compliance of the Schedule # E with the ETF or the appointed asset manager which specifies, among others, its duties and responsibilities as such AP.
- (e) In case of an AP handling more than one exchange traded funds, the ETF, before appointing the AP, shall have identified areas that may give rise to conflict of interest issues and have discussed and provided measures to avoid, if not eliminate, such conflict.
- (f) For each ETF, there shall be at least two APs, of which at least one shall be market maker. The AP shall perform such additional duties and responsibilities, including acting as a market maker as per the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (বাজার সৃষ্টিকারী) বিধিমালা, ২০০০ or amended thereof and in accordance with the agreement with the ETF, the regulation of the exchange and those of the Commission.
- (g) AP may also act as selling agents of the fund as per mutual fund rules.

21. Appointment of Index Provider-

- (1) The trustee shall appoint an index provider if the ETF is index linked fund; hence, shall enter into a tripartite agreement with asset manager and index provider.
- (2) The index provider shall fulfill at least the following conditions:
 - (a) shall be an exchange or any recognized (local or foreign) company by the Commission serving as index provider;
Provided that if the index provider is other than the exchange, it shall have at least 05 years of index providing experience;
 - (b) shall have capability to deliver the functions outlined in these rules
 - (c) shall have sound credentials and exposures in index construction, management and monitoring;
 - (d) shall have qualified and experienced professional in these area;
 - (e) any other criteria set by the commission

22. Appointment of Market Maker:-

- (a) Each ETF shall have at least one market maker, who is registered and appointed under the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (বাজার সৃষ্টিকারী) বিধিমালা, ২০০০ or amendment thereof;
- (b) The market maker shall also be the authorized participant as per the rule 20 of these rules;
- (c) In order to participate in the ETF trading process, the market maker shall apply to the Exchange as per the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (বাজার সৃষ্টিকারী) বিধিমালা, ২০০০ or amended thereof;
- (d) The market maker shall fulfill such requirements that may be imposed by the Exchange and the Commission, including, without limitation, the requirement to have at least two (02) selected authorized participants who have successfully completed a commission approved qualification on investment management;
- (e) The registration of an ETF Market maker and the accreditation of authorized participant shall be valid for a period of two (02) years, unless sooner terminated under these Rules. The registration and accreditation may be renewed thereafter subject to compliance with the requirements of the Exchange and the Commission;
- (f) Only a registered market maker shall be allowed to enter into a market making agreement with an ETF and the Exchange; and also shall be allowed to perform its market making functions pursuant to the agreement and in accordance with the requirements of the Exchange and the commission.

- (g) Only selected authorized participant are allowed to perform the market making functions and obligations of the ETF market maker;
- (h) Each ETF market maker shall comply with the obligation throughout the duration of its registration; and
- (i) The Exchange shall outline detail roles and responsibilities of the ETF market maker with due approval of the commission before making an agreement with the ETF market maker.

CHAPTER V

ISSUANCE/CREATION AND REDEMPTION OF ETF UNITS

23. Issuance and redemption of creation units -

- (1) AMC shall ensure that :
 - (a) Authorized Participant Agreement (APA) sufficiently covers the details of procedure to be adopted by the AMC, AP, and Trustee for issuance and redemption of creation units and shall submit copy of the same to the Commission for its record; and
 - (b) all requests for issuance and redemption of creation units are originated or routed through the AP only.
- (2) AMC may change the creation unit size of the ETF unit only if it is permitted in the constitutive documents; and shall subject to the prior approval of the trustee and the Commission. Any change approved in the creation unit size shall be initiated by the AMC in writing to the stock exchange where the ETF is listed at least 03 working days prior to the effective date of such change.
- (3) AMC shall ensure that the expenses and other charges are adequately disclosed in the constitutive documents and an estimate of the expenses and other charges shall be reviewed regularly and revised, if necessary.
- (4) The trustee of an ETF shall issue or redeem creation units only upo the instructions of the AMC subject to the compliance with the procedures specified in these rules, the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১, the APA and the Constitutive documents.
- (5) The Trustee of an ETF shall ensure issuance of creation units upon completion of transfer of title of the portfolio deposit and cash component in the name of the ETF.

24. Issuance and redemption of ETF Units in-kind -

- (1) As a general rule, units of an ETF shall be issued only upon delivery of the basket of securities underlying an index by the authorized participants; or redeemed, by delivering the basket of securities to the authorized participants after surrender of

the ETF units.

- (2) In relation to the issuance and redemption of ETF units, the ETF shall disclose in its constitutive documents the following:
 - (a) The terms and conditions for the in-kind issuance and redemption of ETF units shall include among others, the price, timing, and procedures thereof;
 - (b) Instructions to issue or redeem ETF units in creation unit or multiples thereof shall be in writing;
 - (c) Only authorized participants shall be allowed to submit said issuance and redemption instructions to the ETF, provided that, any person who has accumulated the basket of securities comprising the index or the ETF units equivalent to a creation unit may cause the authorized participant to present said basket of securities or ETF units for issuance or redemption on his behalf; and,
 - (d) The ETF shall prescribe the terms and conditions for the redemption of Units accumulated by an investor through the authorized participant, including the general manner by which such redemption shall be implemented. The more detailed procedures shall be agreed upon between the ETF and the authorized participant and stipulated in the written agreement between the two and disclosed to the investors.
 - (e) Redemptions shall be completed within the settlement period of the Exchange or the clearing corporation, if any or such other period that the Commission may prescribe.

25. Issuance of ETF Units in exchange for cash: -

In exceptional cases, an ETF may allow the issuance of ETF units in exchange for cash subject to the following conditions:

- (a) This option, when exercised, is not prejudicial to the interest of existing unitholders and will not result in the disruption of an orderly market;
- (b) Any expenses or fees that are incurred in relation to such issuance shall be for the account of the person/investor causing such issuance;
- (c) Such an option is prescribed in the constitutive documents, including the exceptional cases under which said option may be exercised;
- (d) Only authorized participants, for their own accounts, are allowed to exercise such option;
- (e) The ETF shall purchase fully the underlying securities within the period prescribed in the constitutive documents but shall not exceed two months period of such receipt;
- (f) The ETF shall promptly report the exercise of such option to the relevant Exchange and the Commission after the underlying securities have been fully purchased; and,
- (g) The Commission reserves the right to disallow the exercise of said option after determining that the in-cash arrangement is not consistent with the interest of the public, the protection of investors and/or the conduct of an orderly market.

26. Direct Redemption of ETF Units: -

- (1) Subject to recommendation of trustee and approval of the Commission, an ETF may provide for a direct redemption mechanism for the secondary market investors in exceptional circumstances such as, but not limited to:
 - (a) when an ETF is de-listed;
 - (b) when the secondary trading of ETF shares is disrupted over an extended period;
or
 - (c) When the market price of the ETF shares varies significantly from NAVps.
- (2) The threshold for said price variation and such other market circumstances as well as the manner and procedure for Direct Redemption shall be stated in the constitutive documents.

**CHAPTER VI
INDEX AND INDEX PROVIDER**

27. Criteria to be an Index Fund

1. An index fund may seek to track an index by full replication of or substantially all of its assets in the constituents of the underlying index, broadly in proportion to the respective weightings of the constituents;
2. The index should be transparent and published in an appropriate manner.
3. The index should be objectively calculated and rules-based. The index provider is expected to possess the necessary expertise and technical resources to construct, maintain and review the methodology/rules of the index. The methodology/rules should be well documented, consistent and transparent.
4. The name of the scheme must reflect the nature of an index fund. Hence, the words “index”, “tracking” and/or “tracker” are expected to appear in the name of the scheme.
5. The Commission may ask for the submission of the methodology/rules of the index.

28. Selection of Constituents of an Index: -

An Exchange Traded Fund (ETF), if it is an index fund or index tracking fund shall comply with the following conditions:

1. An ETF shall enter into an agreement with an index provider before using the index designed, constructed and calculated by the said index provider.
2. An ETF shall identify and fully describe the index that it plans to track and the provider of said index. The constituent securities should be sufficiently liquid (taking into account their respective weightings and trading volume), and may be readily acquired or disposed of under normal market circumstances and in the absence of trading restrictions.
3. An ETF shall not be allowed to select or use indices/such index whose rebalancing frequency is less than six (06) months period.
4. An ETF shall provide in its constitutive documents, among others, the following

information:

- a. Initial composition of the index and the corresponding weights;
 - b. Methodology used in the selection of the securities comprising the index and the rationale thereto;
 - c. Methodology used in the calculation of the index and the rationale thereto;
 - d. Name and brief educational and professional background of the directors, officers and persons directly responsible for the design and review of the index; and,
 - e. Other indices designed, constructed and calculated by the index provider, current and for the last five (5) years, if any.
5. An ETF shall immediately disclose in a current report any change in the above-stated items.
6. An ETF shall also accordingly disclose the information required under the provision of the সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ or amended thereof regarding Portfolio Holdings.
7. An ETF and its index provider shall disclose the anticipated level of tracking error in normal market conditions and the description of the factors that may affect the ability of the ETF to track the performance of the index. The ETF and the its index provider shall also disclose the size of the tracking error in annual and quarterly reports together with an explanation of the divergence between the anticipated and realized tracking error for the period.
- Provided that both the asset manager and the index provider shall provide explanation to the Commission about the above divergence of tracking error at above 3% for the said period.
8. An ETF and its index provider shall adopt measures reasonably designed to prevent misuse of non-public information between the ETF and the affiliated index provider.

29. Investment Restrictions of index fund: -

- (a) The value of a scheme's holding of securities issued by any single issuer may not exceed 10% of ETF's fund size.
- (b) However, the ceiling mentioned at Para (a) above may not be applicable in such constituent securities, where:
 - (i) each constituent securities accounts for more than 10% of the weighting of the index; and
 - (ii) the scheme's holding of any such constituent securities may not exceed their respective weightings in the index, except where weightings are exceeded as a result of changes in the composition of the index and the excess is only transitional and temporary in nature.
- (c) Provided also that a waiver of (b) may be granted by the commission on a case-by-case basis; after considering the factors including whether the waiver is necessary for the scheme to achieve its objective to track the index.

30. Disclosure requirements for index fund: -

- (a) In addition to the other disclosure requirements for an ETF under these rules, the offering document of an index fund must make the following disclosure and warnings:-
- (i) a description of the market or sector that the index aims to represent; additionally a description of the index performance, if the ETF follow an established index;
 - (ii) the characteristics and general composition of the index and, where applicable, concentration in any economic sectors and/or issuers;
 - (iii) the weightings of the constituent securities of the index as of a date within a month of the date of the offering document;
 - (iv) a disclosure about lack of discretion to adapt to market changes due to the inherent investment nature of index funds and that falls in the index are expected to result in corresponding falls in the value of the scheme;
 - (v) a statement to the effect that there is no guarantee or assurance of exact or identical replication at any time of the performance of the index;
 - (vi) circumstances that may lead to tracking errors and the related risks, and strategies employed in minimizing such errors;
 - (vii) a brief description of the index methodology/rules and/or the means by which investors may obtain such information (for example, by providing the website address of the index provider);
 - (viii) the means by which investors may obtain the latest index information and other important news of the index;
 - (ix) a warning that index composition may change and securities may be de-listed;
 - (x) any circumstances that may affect the accuracy and completeness in the calculation of the index;
 - (xi) the Commission reserves the right to withdraw the authorization of the scheme if the index is no longer considered acceptable;
 - (xii) following the authorization of the scheme, a replacement of the underlying index may only be made in accordance with the provisions of its constitutive document and with the prior approval of the Commission;
 - (xv) any other information which is relevant and material for investors to make an informed investment decision.
- (b) Significant events relating to the index should be notified to the unit holders as soon as practicable. These may include a change in the methodology/rules for compiling or calculating the index, or a change in the objective or characteristics of the index.

CHAPTER VII
INVESTMENT CONDITIONS AND RESTRICTIONS

31. Investment conditions and restrictions.- All investments from the investible fund shall be made subject to the following conditions:-

- (1) the asset manager shall make such investments which are in conformity with the restrictions imposed for mutual fund under the Rule 56 of the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ and restrictions imposed in the constitutive documents;

Provided that for any Islamic fund, it shall get flexibility of the investment restriction ceilings by additional 5% above the prescribed ceilings in the Rule 56 of the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১;

Provided further that except otherwise specified in these rules the annual ceiling of the management expenses shall not be above 3% on weekly average of net asset value of the fund for index fund.

- (2) the investible fund shall not be invested in such securities where the issuer has relation in any form with the asset manager or the Trustee or the sponsor or any other parties of the fund;
- (3) Investment parameters:
 - (a) at least 95% (ninety five percent) of the fund size shall be invested in constituent securities, if it is an index fund:
 - (b) at least 85% (eighty five percent) of the fund size shall be invested in Shariah approved securities, if it is an Islamic fund:

provided that, in case of delay in portfolio formation as per the constitutive documents, the unused portion of collected fund may be invested in money market instruments up-to a period of maximum 06 (six) months from the fund formation;

- (c) maximum 20% (twenty percent) of the fund size may be invested in money market instruments for other than index fund;
- (4) in case of an Islamic fund, the activities of the investees must be Shariah compliant. In determining the Shariah compliance status of the investee and investments, the asset manager shall disclose the Shariah screening methodology prepared by the Shariah council in the constitutive documents;
- (5) investment by an Islamic fund shall be made only in the securities/companies classified as Shariah compliant as per the screening methodology and declared as Shariah compliant by the Shariah Council.

CHAPTER VIII

Contents of Placement Memorandum and Prospectus

32. Contents of Placement Memorandum and Prospectus: -

- (1) An ETF, shall subject to fulfillment of the provision of Rule 9(1)(a) and (b) of these rules and Rule 43 of the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ shall prepare a placement memorandum/Letter of Offer or prospectus which shall contain the relevant information required under “Fourth Schedule – (1)” of Rule 43 of the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ and other provisions specified in these rules. In this regard, the placement Memorandum and prospectus shall also include additional information on the following matters:
 - a. Description of Underlying Index, if index fund
 - b. Other Information regarding the Index, if Index fund
 - c. Means by which investors may obtain relevant information regarding the ETF and the index
 - d. Parties of ETF and their roles
 - e. Due Diligence certificate of Asset manager and Trustee (Schedule # C and D)
 - f. Creation and Redemption Procedures
 - g. Distribution Policy
 - h. Taxation Issues
 - i. Reporting and Accounts
 - j. Warnings or Risk issues
 - k. Termination of the ETF
 - l. Authorization conditions and Waivers Granted to the ETF
 - m. Arbitrage mechanism and market making functions
 - n. Any other information if the Commission deem necessary and appropriate
- (2) In addition to the provision of sub-section (1) above, an ETF shall include the detail public subscription process in the prospectus published under rule 9(1)(b).
- (3) Commission may instruct to incorporate any further information in the placement memorandum or prospectus which the Commission may deem necessary or appropriate for the protection of investors.

CHAPTER IX
Disclosures and Reporting

33. Disclosures & Reporting: -

- (1) An ETF shall fulfill the requirements of the provisions of the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১ or amendment thereof relating to disclosures and reporting to Commission, exchange, or any other parties if not otherwise specified in these rules;
- (2) In addition to fulfillment of sub-clause (1) above, an ETF shall also fulfill the requirement of these rules relating to disclosures and reporting;

Provided that the Commission may instruct the parties of the fund to disclose and /or report any other information.

34. Disclosure in the Official Website: -

- (1) An ETF shall maintain own web site with a hyperlink to the exchange; which shall be freely accessible by the public and which shall provide on a daily basis the following information:
 - (a) the index that the ETF plans to track;
 - (b) the identities and weightings of the component securities and other assets held by the fund;
 - (c) the identities and weightings of the component securities and other assets of the index;
 - (d) the number and type of securities comprising the basket of securities with which the ETF could create or could redeem creation unit; and,
 - (e) the performance of the index together with the NAV.
- (2) Premium/Discount Information. An ETF shall disclose on its official web site the following information:
 - a) the extent and frequency with which market prices of ETF units have tracked the fund's NAV;
 - b) the prior business day's last determined NAV;
 - c) the market closing price of its units;
 - d) the premium/discount of the closing price to NAV; and,
 - e) the extent and frequency with which market prices of fund units were with premium or discount to NAV on monthly basis.

35. Disclosure in the Exchange: -

- 1) An ETF shall disclose the following information in its own website along with a hyperlink to the Exchange:

Components	Frequency	Measurement
ETF Trade Price	Real time	Per unit

Day End ETF Trade Price	Last trading day	Per Unit
Intra-day NAV (iNAV)	Current with one hour interval	Per unit
Day end NAV (at cost price)	Last trading day	Per unit
Day end NAV (at Market price)	Last trading day	Per unit
Units Outstanding	Last trading day	No of units
Units created	Last Week	No of units
Units redeemed	Last Week	No of units
Total Cash Component	Last trading day	Per creation unit
Benchmark Index	Real time	as determined by Index Provider
Tracking Error and divergence in tracking error	Weekly	Graph or determined by Commission

36. Other Disclosures:-

The Commission may from time to time require additional information to be disclosed on a real-time or any other basis, as it may deem necessary.

**CHAPTER X
Arbitrage Mechanism**

37. Arbitrage Process:-

- (1) An ETF shall operate with an arbitrage mechanism designed to minimize the potential deviation between the market price and NAV of ETF units.
- (2) In order to facilitate the arbitrage mechanism, the designated authorized participant(s) must participate in the arbitrage when the price difference between NAV at market price per unit and traded price per unit of ETF is more than 10%.
- (3) Commission may instruct or impose any other conditions to facilitate the arbitrage if deem necessary or appropriate for the protection of investors.

CHAPTER XI
MISCELLANEOUS

38. Enquiry and inspection.-

- (1) The Commission may, on its own motion or upon receipt of any information or complaint, appoint one or more persons as enquiry or inspection authority to undertake enquiry on any matter or inspection of the books of account, records and documents relating to an ETF, the Asset manager, the Trustee, Custodian, Authorized participant, Market maker, index provider or any other party of ETF or person for any of the following reasons, namely:-
 - (a) to ensure that the books of accounts, records and documents are being maintained in the manner specified in these Rules;
 - (b) to enquire or inspect complaints received from unit holders, investors or any other person, on any matter having a bearing on the activities of the ETF or any other person related to it;
 - (c) to ascertain whether the provisions of the Act, the Ordinance and these Rules are being complied with;
 - (d) to enquire or inspect the affairs of an ETF, the parties of the Fund in the interest of the securities market or the investors.
- (2) The enquiry or inspection against an ETF, Asset manager, Trustee, Custodian, Authorized participant, Market maker, index provider or any other party of ETF or person shall be conducted in accordance with the relevant provisions of the Act, Ordinance, and the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১.
- (3) **Contravention.**— If any ETF, Asset manager, Trustee, Custodian, Authorized participant, Market maker, index provider or any other party of ETF or person violates any of the provisions of these Rules, the Act or the Ordinance; or furnishes any false, incorrect or misleading information; or suppresses any information, the Commission may take appropriate actions under the বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন আইন, ১৯৯৩ (১৯৯৩ সনের ১৫ নং আইন) or the Securities and Exchange Ordinance, 1969 or the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১.

39. Power to call for information and documents.-

- (1) The Commission may at any time call for any information and documents from an ETF, Asset manager, Trustee, Custodian, Authorized participant, Market maker, index provider or any other party of ETF or person with respect to any matter relating to the fund.
- (2) Where information and documents are called for under sub-rule (1) it shall be furnished within the time specified by the Commission.

40. Allowable expenses.-

- (1) The asset manager is entitled to charge the following expenses to the fund:
 - (a) Expenses relating to formation and floatation of the fund;
 - (b) Fees payable to the Commission;
 - (c) Trustee fee;
 - (d) Custodian fee;
 - (e) Fund management fee and Incremental fee;
 - (f) Auditors' fee and Valuer's fee, if any;
 - (g) Index Provider fee;
 - (h) Listing fee, depository fees; and
 - (i) Other fees specifically disclosed in the constitutive documents.
- (2) The expenses charged shall be approved by the Trustee and clearly disclosed in the constitutive documents and annual reports of the fund with head wise break-up.
- (3) The annual operating expenses of an ETF except otherwise specified in these rules, the ceiling of such expenses shall not be above 3% on weekly average of net asset value of the fund for index fund and for other types of ETF the above ceiling is not more than 4% weekly average of net asset value of the fund.

41. Short Sale of ETF.-

Short sale on ETF may be allowed subject to approval of the Commission and subsequent direction of the Commission in this regard.

42. Winding up of the fund.-

Except otherwise specified in these rules, the winding –up of an ETF shall be in compliance with the provisions of the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচুয়াল ফান্ড) বিধিমালা, ২০০১.

Provided that for any special meeting the decision shall be taken by voting of the unit holders using the ballot paper and the counting of vote shall be based on volume of unit basis.

43. Clarification, instructions, Order-

- (1) The Commission may provide clarifications of any provision of these Rules in case of arising any confusion; and that shall be binding to all person.
- (2) The Commission may issue instructions and guidelines under these Rules; and that shall be binding to all person.
- (3) The Commission may also issue order under these rules for any issue arises those are not addressed under these rules for the interest of the market or the investors.

44. Appeal:-

If any person aggrieved with any of the decision of the Commission, the person shall appeal to the Commission as per the provisions of the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (আপীল) প্রবিধিমালা, ১৯৯৫.

SCHEDULE – A

[See Rule 4(3)]

Application for registration of an Exchange Traded Fund

A. Information to be furnished:

- (1) Name of the fund:
- (2) Type of the fund:
- (3) Target Size of the fund:
- (4) Name and brief description of the sponsor(s) along with amount and percentage of contribution to be made by each of them:
- (5) Name of the asset manager with registration number & date:
- (6) Name of the trustee, custodian, Authorized participants, market makers with registration number & date:
- (7) Description of Shariah council, in case of Islamic funds;
- (8) Name of the Index Provider, if the fund is index based :
- (9) Details about the Index:

B. Documents to be submitted:

- (1) Structure of the fund;
- (2) Draft Trust Deed;
- (3) Draft Subscription Agreement;
- (4) Draft Investment Management Agreement;
- (5) Due Diligence Certificate of the asset manager (as per Schedule ‘C’);
- (6) Due Diligence Certificate of the Trustee (as per Schedule ‘D’);
- (7) Copies of appointment letter and registration certificate of the Trustee;
- (8) Copies of appointment letter and registration certificate of the asset manager and other parties of the fund;
- (9) Brief profile of members of the key investment team of the asset manager;
- (10) Brief profile of members of the investment committee for the fund;
- (11) Brief description of the Shariah council, if applicable;
- (12) Draft valuation methodology; and
- (13) Draft Investment and Fund Management Guidelines.
- (14) Certified copies of agreement with :-
 - (a) Authorized Participant Agreement(APA)
 - (b) Index Provider
 - (c) Market Maker or any other party

(Name, signature with date and
stamp of the Sponsor)

(Name, signature with date
and stamp of the Asset
Manager)

SCHEDULE – B

[See Rule 4(4)]

Certificate of Exchange Traded Fund

In exercise of the powers conferred by section 10 of the বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন আইন, ১৯৯৩ (১৯৯৩ সনের ১৫ নং আইন) read with rule of the Bangladesh Securities and Exchange Commission (Exchange Traded Fund) Rules, 2016, the Commission hereby grants a certificate of registration to _____, to register as an Exchange Traded Fund (name of the fund) subject to the conditions specified in the Act and the Rules or as may be imposed hereafter by the Commission.

Category of the Exchange Traded Fund shall be General Index Fund/ Islamic Fund.

For and on behalf of

BANGLADESH SECURITIES AND EXCHANGE COMMISSION

Authorized Officer

Schedule – C
[See Rule 32(1)(c)]

Due Diligence Certificate of the Asset manager

Chairman
Bangladesh Securities and Exchange Commission

Sub:(Name of the proposed fund)

We, the under-noted manager to the above-mentioned forthcoming exchange traded fund, state as follows:

1. We, while act as asset manager to the above mentioned exchange traded fund, declare and certify that the information provided in the application, including that provided in the attached sheets and documents enclosed, is complete and true in all respects;
2. We further certify that we shall inform the Bangladesh Securities and Exchange Commission immediately of any change in the information provided in the application and the documents attached with that; and
3. We warrant that we shall comply with and be bound by the Securities and Exchange Ordinance, 1969, বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন আইন, ১৯৯৩ (১৯৯৩ সনের ১৫ নং আইন), কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন), the Bangladesh Securities and Exchange Commission (Exchange Traded Fund) Rules, 2016, and the Rules, guidelines, circulars, orders and directions that may be issued by the Bangladesh Securities and Exchange Commission from time to time in this respect.

WE CONFIRM THAT:

- a) the draft placement memorandum/Prospectus forwarded to the Commission is in conformity with the documents, materials and papers relevant to the fund;
- b) all the legal requirements connected with the said fund have been duly complied with; and
- c) the disclosures made in the draft placement memorandum/prospectus are true, fair and adequate to enable the investors to make a well informed decision for investment in the proposed fund.

For the Asset manager

(Name, signature with date and stamp of the Chief Executive Officer)

Schedule – D
[See Rule 32(1)(c)]
Due Diligence Certificate of the Trustee

The Chairman
Bangladesh Securities and Exchange Commission

Sub: (Name of the proposed fund)

We, the under-noted trustee to the above-mentioned forthcoming fund, state as follows:

1. We, while act as trustee to the above mentioned fund on behalf of the investors, have examined the draft placement memorandum, legal and other documents and materials as relevant to our decision; and
2. On the basis of such examination and the discussions with the asset manager and it's officers, and other agencies; independent verification of the statements concerning objects of the fund and the contents of the documents and other materials furnished by the asset manager: -

WE CONFIRM THAT:

- (a) all information and documents as are relevant to the issue have been received and examined by us and the draft placement memorandum, draft trust deed and other constitutive documents forwarded to the Commission have been approved by us;
- (b) we have also collected and examined all other documents relating to the fund;
- (c) while examining the above documents, we find that all the requirements of the Bangladesh Securities and Exchange Commission (Exchange Traded Fund) Rules, 2016 have been complied with;
- (d) we shall act as trustee to the issue as mentioned above as per provisions of the trust deed to be executed with the sponsors and shall assume the duties and responsibilities as described in the trust deed and other constitutive documents;
- (e) we shall also abide by the Bangladesh Securities and Exchange Commission (Exchange Traded Fund) Rules, 2016 and conditions imposed by the Commission as regards of the fund;
- (f) we shall act to our best for the benefit and sole interests of the unit holders of the fund; and
- (g) the above declarations are unequivocal and irrevocable.

For Trustee

(Name, signature with date and stamp of the Chief Executive Officer)

Schedule – E
[See Rule 12(3)]
Minimum Contents of the Authorized Participant Agreement (APA)

Both parties mutually agreed to the following areas:

- (a) Adherence to Constitutive Documents, applicable Rules, Regulations, Laws and other procedures devised by AMC from time to time;
- (b) Relationship and Role of each party to the agreement;
- (c) Procedure for Creation and Redemption of units;
- (d) Procedure for settlement of Cash Component;
- (e) Procedure of subscription collection and delivery to the ETF;
- (f) Conditions where Bids and Offers can be withdrawn by AP, if the AP is market maker (such as at upper & lower caps);
- (g) Fees (if any), and disclosure on charging of fee;
- (h) Notification to AP by AMC for changes in index weights and composition;
- (i) Indemnification from AP to AMC (to cover AMC for areas where AMC cannot regulate the AP);
- (j) Availability of Information;
- (k) Standard format of notices and procedure to be exchanged between the parties;
- (l) Procedure for making amendments to the Agreement;
- (m) Effectiveness, Termination of Agreement and Dispute Resolution;
- (n) Governing Laws;
- (o) If the Commission impose or instruct further conditions;
- (p) Signatories to the Agreement and Witnesses.