

## Directive

Whereas, as per section 2 (g) of the Securities and Exchange Ordinance, 1969 (ORDINANCE No. XVII of 1969) Bangladesh Luggage Industries Limited is an issuer (herein after referred to as “issuer”);

Whereas, the issuer in 1996 issued Prospectus with prior consent of the Securities and Exchange Commission (herein after referred to as “Commission”) under the Securities and Exchange Ordinance, 1969, for raising share capital of Taka 10,00,00,000 against issuance of 10,00,000 ordinary shares of Taka 100 each, as well as for raising debt capital of Taka 15,00,00,000 by issuing 60,000 14% Debentures of Taka 2,500 each;

Whereas, the debt capital raised thereagainst the said debentures was convertible up to 20% on 5<sup>th</sup> September 1998 on the option of the investors and the balance 80% was fully redeemable in 10 (Ten) semi-annual installments commencing from 5<sup>th</sup> March 1999, termination on 5<sup>th</sup> September, 2003, and also that the Debentures will be participative, i.e. if in any year the rate of cash dividend declared to ordinary shareholders exceeds the rate of interest payable to debentureholders, the debentureholders shall, in addition to the interest, participate in the profit of the company @ 1/4<sup>th</sup> of the difference between the interest on debentures and the cash dividend on the shares;

Whereas, Pragati Insurance Limited and National Credit & Commerce Bank Ltd. are acting as trustee and co-trustee respectively to the debentures issued by the issuer pursuant to the Deed of Trust executed by and between the above companies on October 13, 1996;

Whereas, the following provisions, among others, are stated in the aforesaid Deed of Trust:

“..... 6. The security hereby constituted shall (subject as hereinafter provided) become enforceable in any of the following events:

- (a). If the Company makes default in the payment of any interest which ought to be paid in accordance with these presents.
- (b). If the Company ceases to carry on its business, or threatens to do so without the consent of the Debenture Holders.
- (c). If an order of a court of law is made or a special resolution passed for winding up of the Company.
- (d). If default shall be made by the Company in the performance or observance of any covenant, condition or provision binding on it under these presents and the Company shall fail to perform fully or make good the breach of such covenant, condition or provisions within ten days from receipt of notice in writing from the Trustees requiring it to do so.
- (e). If an encumbrancer takes possession or a receiver is appointed of the Mortgaged Premise or any part thereof and such possession or appointment shall in the opinion of the Trustees be prejudicial to the security hereby constitute.
- (f). If a distress, execution or other process shall be levied or enforced upon or sued out against the Mortgaged Properties or any part thereof and shall not be withdrawn or discharged, satisfied or paid out within 10 days or such extended period as may be agreed to in writing by the Trustees from the date of levy enforcement of such distress, execution or other process.
- (g). If the Company sells the Mortgaged Properties other than as allowed under the terms of these presents.
- (h). If the Company stops payments or has ceased or unable to pay its debts within the meaning of the Act and it appears to the Trustees that the further prosecution by the Company of its business will endanger the security hereby created.
- (i). If any security created and/or to be created by the Company in favour of any person firm or corporation other than the Trustees becomes enforceable in accordance with its terms.
- (j). If the Company shall, without the previous consent in writing of the Trustees, make or attempt to make any alteration in the provisions of its Memorandum and/or Articles of Association which might

in the opinion of the Trustees determinately affect the interest relating to the securities of the Debenture Holders.

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Provided that on the happening of the events specified in sub-clause (a) the permission given by Clause 6 to hold and enjoy the equitably Mortgaged Properties shall not be determined unless and until the Trustees have first served on the Company a preliminary notice requiring the Company to pay the interest in arrears and until the Company has neglected for the period of 30 days to comply with such notice.

7. As soon as the principal money shall become payable and the security enforceable under the last preceding Clause 6 and unless the time for payment and the security to be enforced has been expressly extended by the Debenture Holders the Trustees shall enter upon and take possession of the Mortgaged Properties and shall forthwith take steps to consult the Debenture Holders for the purpose of determining whether the business of the Company may be allowed to be carried on or whether the security on the Mortgaged Properties shall be realised by way of sales or otherwise.

8. Until the happening of one or other of the events mentioned in Clause 6 of this indenture, the Trustees shall not in any manner interfere with the management or affairs of the said business except to the extent they may consider necessary for the preservation on the Mortgaged Properties or of any part thereof.

9. If the Debenture Holders resolve not to allow the business of the Company to be carried on as mentioned in Clause 7 above but to realise the security, the Trustees shall, after giving a notice of 30 days in writing to the Company, proceed to realise the security on the equitably Mortgaged Properties by sales or otherwise, and in doing so, shall conform to discretion, if any, given by the Debenture Holders.

10. The Trustees shall apply the proceeds of such sale or other mode of realisation in the following manner, that is to say, that the Trustees shall pay;

- (a) In the first place, all costs, charges, and expenses incurred in or about such sale or the performance or execution of trust or otherwise in relation to these presents or otherwise in respect of the security including the remuneration of the Trustees.
- (b) Secondly, the interest for the time being due and owing on the Debentures.
- (c) Thirdly, the principal money then due and owing to the Debentures Holders.
- (d) And lastly, the surplus, if any, to the Company or its assigns.

It is however, provided that, if the said moneys shall be insufficient to pay all such interest payments or principal moneys in full, then the said moneys shall be paid rateably and without preference or priority among all Debenture Holders of this series according to the amount of the face value of the Debenture held by them, and in such a case interest shall be paid before any principal moneys.....”

Whereas, Bangladesh Luggage Industries Limited failed to pay the principal and interest due on the debentures for which the Commission received several complaints from the debentureholders which were referred by the Commission to the issuer and trustees on different dates from the year 2002 to 2007;

Whereas, in addition to sending the complaints received in respect of the above failure of the issuer company, the Commission held several meetings with the issuer company and trustees on different dates for payment of the principal and interest dues to the debentureholders during February, 2004 to February, 2007;

Whereas, the Commission issued a letter No. SEC/Enforcement/89/2002/1254 dated September 21, 2008 to Pragati Insurance Limited and National Credit & Commerce Bank Ltd. (Trustees), requesting to furnish the Commission a list of debentureholders, with folio wise break up and payments made to each of them till date and outstanding (principal and interest separately) to each of them, duly endorsed by the trustee(s);

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Whereas, in response to the Commission's aforesaid letter, Pragati Insurance Limited (Trustee) submitted a letter dated October 28, 2008 along with a copy of the list of debenture holders, with folio wise break-up and outstanding (principal and interest separately) wherefrom it appears that the outstanding dues against the debentures as on September 30, 2008 was amounting to Tk. 10,90,13,991.00; out of which outstanding principal was amounting to Tk. 8,18,14,722.00 and outstanding interest was amounting to Tk. 2,71,99,269.00;

Whereas, the record shows that the trustees have failed to discharge their duties as per covenants of the said Deed of Trust;

Whereas, the above failure of the issuer as well as trustees is detrimental to the interest of the investors who have invested in the securities issued by the said issuer pursuant to the requirements of the above said Prospectus, and also affecting the development of the capital market at large;

Whereas, protection of investors in securities as well as development of the capital market and the securities market are, among others, the objectives of the Commission for which the Securities and Exchange Commission has been set up under the Securities and Exchange Commission Act, 1993 (Act No. XV of 1993); and

Whereas, in view of the all above, the Commission deems it to be expedient that, in the interest of the investors in securities and the capital market as well, a direction to the above said trustees should be given for settling payment of the principal and interest dues against debentures of Bangladesh Luggage Industries Limited, based on the Trust Deed, without further delay;

Now, therefore, the Securities and Exchange Commission, in exercise of its power conferred in it by section 20A of the Securities and Exchange Ordinance, 1969 (XVII of 1969), hereby directs Pragati Insurance Limited and National Credit & Commerce Bank Ltd., trustee and co-trustee respectively, to take immediate steps as per the Trust Deed executed among the issuer, Pragati Insurance Limited and National Credit & Commerce Bank Ltd. for payment of the dues to the Debentureholders concerned and to submit a compliance report to that effect to the Commission within two months from the date of this directive.

By order of the Securities and Exchange Commission

**Farhad Ahmed**  
**Executive Director**

**Distribution:**

1. Pragati Insurance Limited (trustee), Pragati-RPR Centre, 20-21 Kawran Bazar (14<sup>th</sup>, 15<sup>th</sup> and 16<sup>th</sup> Floor), Dhaka-1215 (Managing Director of Pragati Insurance Limited is requested to place the Order of the Commission in the next board meeting of the company.)

2. National Credit & Commerce Bank Ltd. (co-trustee), 7/8, Motijhel C/A, Dhaka-1000 (Managing Director of National Credit & Commerce Bank Ltd. is requested to place the Order of the Commission in the next board meeting of the company.)
3. Bangladesh Luggage Industries Limited, Doel Complex, Karnapara, Savar, Dhaka

**Copy to:**

1. Chief Executive Officer, Dhaka Stock Exchange Limited
2. Chief Executive Officer, Chittagong Stock Exchange Limited
3. Executive Director (R&D), SEC
4. Executive Director (SRMID), SEC
5. Director (MIS), SEC
6. Director (CFD), SEC
7. Chairman's Office, SEC