Chapter 9: Investments and Disclosure of Interest

1 Chapter Roadmap

INVESTMENTS BY A COMPANY
associated companies · special resolution · own name · register (Sec. 1)
→
DISCLOSURE OF INTEREST
directors · officers · related party transactions (Sec. 2)
→
OBJECTIVE BASED Q&A
(Sec. 3)

Theme: the board decides investments – but money going to an associated company needs members' special resolution and strict conditions. Directors are fiduciaries: they must disclose any interest, stay out of the decision, and related party deals must follow a board-approved policy.

2 Associated Companies & Undertakings [Section 2(4)]

Two or more companies / undertakings are associated if...

- a person who is the **owner, partner or director** of one, or holds (directly or through spouse / minor children) **≥ 20% of voting power** in it, is also the owner, partner or director of the other, or holds ≥ 20% in it; **or**
- they are under **common management or control**, or one is the **subsidiary** of the other; **or**
- the undertaking is a **modaraba managed by the company** (modaraba – Islamic, interest-free financing set-up floated by a licensed modaraba management company).

IGNORED when testing association

- directorship by **nomination of a Government Minister** or a Government-owned / controlled **financial institution**
- directorship as an **independent director**
- shares owned by the **National Investment Trust** or a Government-owned / controlled financial institution
- shares registered in the name of a **central depository** not beneficially owned by it

MCQ: a directorship nominated by an ordinary (non-Government) financial institution is **not** excluded.

Example	Associated?
Azam – director of ABC Ltd and DEF Ltd (Ex. 01)	YES companies
Azam also a partner of GHI Enterprises	YES undertakings
Babar – director of ABC; owns > 20% of JKL (Pvt) Ltd (Ex. 02)	YES
ABC holds DEF and KLM; DEF vs KLM (Ex. 03)	YES common control
NIT owns 25% of ABC and 30% of XYZ (Ex. 04)	NO
Saima – director of ABC; **independent** director of XYZ (Ex. 05)	NO
Kingfish holds 16% of Moonfish, no common director	NO – board approval enough

Chapter 9: Investments and Disclosure of Interest

3 Investment in Associated Companies [Section 199]

"Investment"
Includes **equity, loans, advances, guarantees** by whatever name called – except normal **trade credit** on arm's-length terms under the company's trade policy.

General power
Investment decisions are made by the **directors** in board meetings (e.g. Kalaam Ltd buying 8% of an unconnected company).

SPECIAL RESOLUTION
in general meeting stating
NATURE, PERIOD, AMOUNT
and
TERMS & CONDITIONS
(any increase or change also needs one)

+

WRITTEN AGREEMENT
for loans / advances – per members' approval

+

MINIMUM RETURN
not less than the
HIGHER
of investing company's
BORROWING COST
or rate specified by SECP

+

DUE DILIGENCE CERTIFICATE
directors certify borrower can repay

Loan agreement must include

- nature of loan
- purpose
- period
- rate of return
- fees or commission
- repayment schedule (principal & return)
- penalty for default / late payment
- security, if any

If return not recovered

Return must be recovered regularly per the agreement – otherwise the **directors are personally liable** to make the payment. An **interest-free** loan to an associated company (Blush Pakistan → Jade Packaging) breaches the minimum-return rule.

Scenario	Why associated – what's needed
Kalaam Ltd lends Rs. 100m to Monsoon (Pvt) Ltd (holds 25%, two common directors)	Common directorship → special resolution, agreement, minimum return, due diligence
Snow Storm Ltd invests Rs. 200m in Flipper (Pvt) Ltd – Ironside owns 51% and 52%	Common control → same conditions
Silver Topaz (18% of Jade Ltd) nominated a director; buys 10% more	Common directorship → special resolution
Blush Pakistan & Jade Packaging – both managed by Ivory (Pvt) Ltd	Common management → special resolution; file it in 15 days; annex to articles
Aramis Ltd – extra 25% loan for associated company's project	Change in amount → new special resolution (circulation if unlisted ≤ 50 members, or EGM)
Nakin Tyre Ltd lends Rs. 50m to Axis Rubber (Pvt) Ltd	Bashir holds 20/100 = **20%** of NTL; in ARL he holds 2/50 = 4% + wife Nasira 37/50 = 74% → **78%** → associated

Chapter 9: Investments and Disclosure of Interest

4 Investments Held in the Company's Own Name [Section 200]

Rule
All investments made by a company on its own behalf must be made and held **in its own name**.

Exception ① Minimum members
Shares in a **subsidiary** may be held in a nominee's name so that its members don't fall below the statutory minimum. (ABC's 100% unlisted public subsidiary needs 3 members → 2 nominees.)

Exception ② Qualification shares
Where the company can appoint a director of another company, shares up to the nominal value of that director's **qualification shares** may be held jointly with, or solely in the name of, the nominee. (Mr. Afzal – 10,000 shares.)

Exception ③ Central depository
Securities may be placed in the name of the **central depository company** (as trustee) – beneficial ownership stays with the company.

Falcon Cars Ltd – shares in others' names	Justified?
Albatross (100%, unlisted public) – 1 share each with Muneer and Salman	YES keeps 3 members
Raven Cars (15%, listed) – 10% in Owais's name as nominated director	YES if RCL's articles require 10% qualification shares (15% > 100% ÷ 7 = 14.28% gives a board seat)
Coot Trackers (5%, unlisted, already 5 members) – 1 share with Qaim	NO no exception applies

Oliver Travels: 500 shares of its wholly owned private subsidiary in employee Rahim's name (private needs 2 members) and 5,000 TTPL shares in nominee director Sami's name (qualification shares) – both justified. **Non-compliance:** company – fine up to **Rs. 5 million**; officer in default – imprisonment up to **2 years** or fine up to **Rs. 1 million**, or both.

5 Register of Investments Not Held in Own Name [Section 200]

Contents
Kept at the **registered office**; entered **forthwith** – nature, value and particulars identifying the shares / securities.

Inspection
Members free; others on fee fixed by the company – during business hours, at least **2 hours each day**.

Certified copies
Any member, on request and fee – issued within **7 days**. On contravention the **registrar** may compel inspection / copies.

6 Disclosure of Interest by Directors [Section 205]

Why & what
Directors are agents in a **fiduciary relationship** – any director concerned or interested in a contract / arrangement (entered or to be entered) must disclose the **nature of his interest at a board meeting**. He is also interested if a **relative** (spouse, children incl. step-children, parents) is interested. Disclosure does **not** validate a transaction prohibited by law.

Situation	When to disclose
Transaction needs board approval – interested from the start	**First board meeting** where it is discussed
Transaction needs board approval – becomes interested later	First board meeting **after** he becomes interested
Transaction does not need board approval	First meeting **after** it is entered into

General notice
A director may give one general notice of his directorships / memberships in other bodies corporate or partnerships – treated as interested in any deal with them. Given at a board meeting (or he ensures it is read at the next one). **Expires at the end of the financial year**; renewed by a fresh notice in the **last month** of the year.

Chapter 9: Investments and Disclosure of Interest

7 Interested Director Must Not Participate [Section 207]

Not to take part or vote

No part in discussion or vote; **not counted in quorum**; any vote cast is **void**.

Listed company: a director with a **material personal interest** must **not be present** while the matter is considered.

Majority interested

If a **majority of directors** are interested, the matter goes to the **general meeting** for approval (Quality Tiles – 4 of 7 directors are FMF partners → contract must go to GM).

Exceptions: (i) director of a **private company** that is **neither a subsidiary nor a holding company** of a public company; (ii) a director who acted as **surety** for the company, where the resolution is about indemnifying / insuring him against loss as surety.

Hasan Ali (Faraz Ltd): negotiating with Bari Ltd whose CEO is his wife → disclose at the first board meeting where the contract is considered; then stay out of the discussion and vote.

Fida Rehman (Golden Industries, listed): contract with Carol (Pvt) Ltd on 9 Nov 2025; his **father** buys 12% of CPL on 7 Mar 2026 → disclose at the first board meeting after 7 Mar 2026; general notice expires at year end, renew in the last month.

8 Officers Other Than Directors [Section 206]

Rule

Any other officer directly or indirectly interested in a proposed contract must **disclose** the nature and extent of the interest and obtain the board's **prior approval** before entering into it. (Akram – CFO of Snapper House – company renting his wife Najma's building.)

9 Related Party Transactions [Section 208]

"Related party" includes

i. a **director** or his relative;
ii. a **key managerial personnel** or his relative;
iii. a **firm** in which a director, manager or his relative is a partner;
iv. a **private company** in which a director or manager is a member or director;
v. a **public company** in which a director or manager is a director, or holds with his relatives **any shares**;
vi. a body corporate whose CEO / manager acts on a director's or manager's advice (not professional advice);
vii. a person on whose advice a director / manager acts (not professional advice);
viii. a **holding, subsidiary or associated** company, or a fellow subsidiary;
ix. others as specified.

Relative here = spouse, siblings, lineal ascendants and descendants.

Example	Related party?
Naheed – director of XYZ (Ex. 10)	YES
Azam – Naheed's spouse	YES
ABC firm – Azam is a partner	YES
Adeel – advises KLM purely professionally (Ex. 11)	NO
Tamarind Ltd – director Aslam's spouse holds 5%	YES
Lionfish (listed) – Bashir Rehman's elder brother holds 100 shares	YES
Entity G – its subsidiary F has Entity E's director Ahmed on its board	YES
Two entities whose CEOs are only friends	NO

Office of profit

A director receiving anything **beyond his director's remuneration** (salary, fee, commission, perquisites, **rent-free accommodation**...); for others – any remuneration. Fareed (meeting fees only) → **no**; Naveed (supervises production + rent-free house) → **yes**.

Chapter 9: Investments and Disclosure of Interest

10 Related Party Transactions – Approval Route

BOARD-APPROVED POLICY
needed for: sale / purchase / supply of goods · buying / selling property · leasing · services · appointing an agent · related party's office of profit

→

MAJORITY OF DIRECTORS INTERESTED?
→ general meeting – **SPECIAL RESOLUTION**

→

BOARD'S REPORT
every related party contract referred to with **JUSTIFICATION**
; records as specified by SECP

Exception: transactions in the **ordinary course of business on an arm's-length basis** need neither the policy nor a special resolution. Majeed's brother buys two air conditioners from MEL's showroom at the normal retail price → s.208 does not apply. Axis Rubber selling to Nakin Tyre on a **special 6-month credit** → **not** arm's length.

Contract made without required approval

If not **ratified** by the board or shareholders (as required) within **90 days** → **voidable** at the board's option. If with a director's related party or authorised by another director, those directors must **indemnify** the company; the company may also recover losses from the director / employee.

Cherry Ltd – contract 15 Aug 2022 → ratify by **13 Nov 2022**.

Penalty – breach of s.205, 206(1), 207 or 208

Listed: imprisonment up to **3 years**, or fine not less than **Rs. 5 million**, or both.
Other companies: penalty **level 2**.
Court [s.212]: may declare a director **lacking fiduciary behaviour** → disqualified for **5 years**.

11 Time Limits & Numbers

Requirement	Limit	Section
Voting power linking associated companies	**≥ 20%**	2(4)
Return on loan to associated company	**≥ higher of borrowing cost / SECP rate**	199
File special resolution with registrar	**15 days**	150
Inspection of investments register / certified copy	**2 hours daily · 7 days**	200
General notice of interest valid until	**Year end** (renew in last month)	205
Ratify an unapproved related party contract	**90 days**	208
Listed company penalty	**3 years / ≥ Rs. 5m**	208

Chapter 9: Investments and Disclosure of Interest

12 Exam Question Patterns & MCQ Quick Clues

"Power to make investments rests with..."	→	**Directors**
"Investment in associated company needs..."	→	**Special resolution in general meeting**
"Investment includes..."	→	**Equity, loans, advances, guarantees**
"Register of investments not in own name – members inspect..."	→	**Free, at least 2 hours daily**
"Majority directors interested in a related party deal"	→	**Special resolution in general meeting**
"Interested director may still take part if he is director of..."	→	**Private co. – not holding / subsidiary of public**
"Unapproved contract is saved if ratified within 90 days by..."	→	**Either directors or shareholders**
"Nominee director's shares registered in his name"	→	**Only qualification shares per articles**

⚠ CHAPTER 9 EXAM TRAPS

Trap: Normal **trade credit** on arm's-length terms is **not** an investment.

Trap: Independent directors, Government / Government-FI nominees, NIT and CDC holdings do **not** create association.

Trap: Return on a loan to an associate = **higher** of borrowing cost and SECP rate – interest-free loans are not allowed.

Trap: "Relative" for disclosure (s.205) = spouse, children (incl. step), parents; for related parties (s.208) = spouse, siblings, lineal ascendants & descendants.

Trap: An officer (not a director) needs the board's **prior approval** – not just a later update.

Trap: Arm's-length, ordinary-course transactions are **outside** s.208.

CAF-04 – CHAPTER 9 IN 60 SECONDS

- **Associated:** common owner / partner / director or ≥ 20% holder · common control or subsidiary · managed modaraba · exclusions (independent, Govt nominees, NIT, CDC).
- **Investment** = equity, loans, advances, guarantees (not trade credit) · board decides generally.
- **In associates:** special resolution (nature, period, amount, terms) · written loan agreement · return ≥ borrowing cost / SECP rate · due diligence certificate · directors personally liable.
- **Own name** rule · exceptions: subsidiary minimum members · qualification shares · CDC · register (members free, 2 hours, copies in 7 days).
- **s.205:** disclose at board · relatives count · general notice till year end.
- **s.207:** no discussion / vote / quorum · listed: leave the room · majority interested → GM.
- **s.206:** other officers need prior board approval.
- **s.208:** related parties · board policy · majority interested → special resolution · arm's-length exempt · ratify in 90 days or voidable · listed: 3 years / ≥ Rs. 5m.

13 Chapter Memory Map

Associated Companies · 20% Test · Exclusions · Meaning of Investment · Special Resolution · Loan Agreement · Minimum Return · Due Diligence · Own-name Rule · Nominee Exceptions · Investments Register · Director's Disclosure · General Notice · No Vote When Interested · Officer's Disclosure · Related Parties · Office of Profit · Arm's Length · 90-Day Ratification